

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Honorable Dale E. Van Slambrook, Circuit Court Judge

Appellate Case No. 2025-000881

Mother Doe and Father Doe, Individually and as the Parents and Natural
Guardians of Jane Doe, a minor.....Respondents,

v.

Palmetto Preschool & Learning Center, LLC.....Appellant.

**APPELLANT'S RETURN IN OPPOSITION TO RESPONDENTS' MOTION
TO DISMISS FOR IMMEDIATE RELIEF 6 DAYS UNTIL NEXT
DEPOSITION**

Appellant Palmetto Preschool & Learning Center, LLC ("Palmetto Preschool"),
by and through undersigned counsel, submits this Return In Opposition to
Respondents Mother Doe and Father Doe, Individually and as the Parents and
Natural Guardians of Jane Doe's Motion to Dismiss for Immediate Relief. Appellant
respectfully requests the Court issue an order denying Respondents' motion.

Procedural History

The lawsuit that is the subject of this appeal was filed in the Horry County
Court of Common Pleas on April 18, 2023. In that lawsuit, Respondents alleged that
Jane Doe and her sister enrolled at Defendant Palmetto Preschool & Learning

Center, LLC in the summer of 2020. **Complaint ¶6 (Exhibit A).** The Complaint alleged that “[o]n or about September 2020, Plaintiff Jane Doe reported to her parents that another child at the school was locking her in a bathroom and sexually assaulting her.” **Complaint ¶7.** The Complaint alleged that “Mother Doe reported the assault to the school the day it was reported by her daughter.” **Complaint ¶8.** According to the Complaint, two days later, Jane Doe reported to Mother Doe “that the perpetrator had assaulted her again.” **Complaint ¶11.** Respondents’ Complaint alleges two causes of action against Palmetto Preschool: (1) negligence/gross negligence and (2) the “necessaries doctrine.” **Complaint ¶¶19-24.** Appellant filed its Answer on May 26, 2023, and denied the substantive allegations of the Complaint. **Answer ¶¶7-8 (Exhibit B).**

On October 29, 2024, Appellant noticed the deposition of Jane Doe to take place on November 15, 2024. **Exhibit C.** On November 14, 2024, Respondents filed a Motion for Protective Order Barring Deposition of Plaintiff Jane Doe, A Minor Child. **Exhibit D.** The parties later submitted memorandums setting forth their respective positions on the motion. **Exhibits E and F.** A hearing on the motion took place on February 24, 2025 before the Honorable Dale E. Van Slambrook. At that time, the Circuit Court indicated it was taking the matter under advisement. On February 25, 2025, the Circuit Court’s law clerk emailed the parties, advising counsel for Respondents that the Circuit Court “asks that you prepare an Order which grants Plaintiff’s Motion for Protective Order. Please include all procedural and factual

history you feel is necessary and submit via e-filing within ten (10) days.” **Exhibit G.**

On March 3, 2025, Respondents’ counsel emailed Appellant’s counsel with a draft of a proposed order granting the protective order. Counsel for Appellant replied that day, advising of his objection to the proposed order, on the basis that it contained inappropriate and improper factual findings, many of which were in dispute, was exceedingly broad, and did not rule on whether reasonable accommodations could be imposed to allow the deposition to go forward in some capacity. Respondents’ counsel and Appellant’s counsel had subsequent emails regarding the language of the proposed order and could not come to an agreement. **Emails attached as Exhibit H.**

On March 4, 2025, Respondents’ counsel emailed a draft of the proposed order to the Circuit Court’s law clerk. **Exhibit I.** The following day, Appellant’s counsel emailed the Circuit Court’s law clerk, attaching the email chain with Respondents’ counsel concerning the language of the proposed order, and advising of his continued concerns about the proposed order. Appellant’s counsel advised that the order contained a number of facts that are inappropriate, unnecessary, and are presented as undisputed, despite not being supported or being in dispute. Appellant’s counsel also advised that the Order did not include any analysis on Appellant’s position that reasonable accommodations could be imposed that would allow the deposition to go forward in some capacity. **Exhibit J.**

The Circuit Court issued an Order Granting Plaintiff's Request for Protective Order on March 14, 2025. **Exhibit K.** On March 24, 2025, Appellant filed a timely Motion to Reconsider the Court's Order Granting Plaintiff's Request for Protective Order pursuant to Rule 59(e), SCRPC. **Exhibit L.** That motion noted that while the March 14, 2025 protective order "was not identical to the proposed Order filed by Plaintiff's counsel . . . there were large portions of the proposed order that were incorporated into the filed Order." **Motion Page 2.** The motion to reconsider further stated that "there are still unsupported or disputed factual findings within the filed Order." **Motion Page 3.** Moreover, the motion to reconsider argued that the Court erred in ruling that Appellant could not depose Jane Doe with reasonable accommodations. **Motion Page 5.** On April 3, 2025, the Court filed a Form 4 Order denying Appellant's motion for reconsideration. **Exhibit M.** Subsequently, this appeal was timely filed on May 2, 2025.

Law

Section 14-3-330 of the South Carolina Code sets forth the following circumstances in which a South Carolina appellate court would have appellate jurisdiction:

- (1) Any intermediate judgment, order or decree in a law case involving the merits;
- (2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial, or (c) strikes out an answer or any part thereof or any pleading in any action;

- (3) A final order affecting a substantial right made in any special proceeding or upon a summary application in any action after judgment; and
- (4) An interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction or granting, continuing, modifying, or refusing the appointment of a receiver.

An appellate court's review of a trial court's order "is not constrained by how the order is styled." *Morrow v. Fundamental Long-Term Care Holdings, LLC*, 412 S.C. 534, 539, 773 S.E.2d 144, 147 (2015). "[A]n 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).

Analysis

I. The Circuit Court's Protective Order Contains Unsupported, Inaccurate, and Disputed Factual Findings¹

The Circuit Court issued a protective order that contained unsupported, inaccurate, and disputed factual findings that could be interpreted to effectively strike certain defenses of Appellant; as such, the order is immediately appealable. *See* S.C. Code Ann. § 14-3-330.

A. The Protective Order Contains the Erroneous Factual Finding that Jane Doe told Mother Doe on or about August 27, 2020 that "Another Minor Child Enrolled at Defendant Palmetto Preschool Sexually Assaulted Jane Doe"

¹ Appellant disagrees with the Circuit Court's ruling in its March 14, 2025 protective order, and later in its April 3, 2025 order denying Appellant's motion to reconsider, that Appellant could not take the deposition of Jane Doe. However, Appellant recognizes that ruling *by itself* is not immediately appealable. This appeal is focused on the factual findings contained within the Court's March 14, 2025 order that one could interpret to strike out parts of Defendant's answer. Nothing in this Return or in this appeal is intended to waive any argument of Appellant that the Circuit Court erred when it ruled that Appellant could not depose Jane Doe, and Appellant specifically preserves that argument and any other basis for contesting the Circuit Court's March 14, 2025 and/or April 3, 2025 orders.

The Facts section of the Circuit Court’s Protective Order includes the statement “On or about August 27, 2020, Jane Doe told Mother Doe that another minor child enrolled at Defendant Palmetto Preschool sexually assaulted Jane Doe.” This statement is not presented as an allegation – instead, it is presented as a factual finding of the Court, despite the fact that it is both unsupported and disputed.

As previously noted, Respondents’ Complaint alleged that “[o]n or about *September 2020*, Plaintiff Jane Doe reported to her parents that another child at the school was locking her in a bathroom and sexually assaulting her.” **Complaint ¶7** (emphasis added). Mother Doe later testified in her deposition that she does “not recall the date” when this conversation took place, and later testified “[m]y sense is that it was late August.” **Mother Doe Deposition 23:7-12, Exhibit N**. Crucially, Mother Doe never testified that Jane Doe used the terms “sexual assault.” **Mother Doe Deposition 23:22-24:5**. During the 30(b)(6) deposition of Palmetto Preschool, the 30(b)(6) designee Amber Rogers testified that Mother Doe “came in and talked to Jen about it on the – on Thursday, the 27th. So it would have had to have been the three days prior to that.” **30(b)(6) Deposition of Palmetto Preschool – Amber Rogers 85:22-86:4, Exhibit O**. Rogers did not testify about when any conversation between Jane Doe and Mother Doe would have taken place.

Such a factual finding could be interpreted to effectively strike Appellant’s defense that the incident Jane Doe described to her mother did not constitute sexual assault. *See* S.C. Code Ann. § 14-3-330(2). In its Answer, Appellant denied the allegation of the Complaint that “[o]n or about September 2020, Plaintiff Jane Doe

reported to her parents that another child at the school was locking her in a bathroom and sexually assaulting her,” and further denied that Mother Doe reported a sexual assault to Appellant. **See Complaint ¶7-8, 11; Answer ¶7-8.** Critical defenses of Appellant in this case are that a singular incident occurred between Jane Doe and another minor child and that this incident did not constitute a “sexual assault,” and furthermore that the incident was not reported as a “sexual assault” to Appellant. **See 30(b)(6) Deposition of Palmetto Preschool – Amber Rogers 73:6-74:11; 75:23-76:15** (describing the incident as another minor child putting paper towels or toilet paper down Jane Doe’s pants, noting there was no sexual nature to what occurred, stating “[i]n Amy’s estimation, it was a typical childhood goofing off and not any kind of sexual content or inappropriateness, no effort to touch any private parts,” and testifying that Mother Doe “seemed fine” and “seemed to think it wasn’t any big deal” when discussing the incident with Jennifer Cusack of Palmetto Preschool). Moreover, Respondents’ inability to identify the date on which Jane Doe allegedly told Mother Doe about this incident, as seen in Mother Doe’s deposition testimony as well as Respondents’ Complaint, is a critical fact that further supports Appellants’ defense that the incident she described did not constitute a “sexual assault.” *See Morrow*, 412 S.C. at 539, 773 S.E.2d at 147 (concluding a challenged order was immediately appealable, regardless of what it was called, because it implicated the appellant’s substantial rights, and stating, “Our review of the trial court order is not constrained by how the order is styled.”); *Thornton*, 391 S.C. at 304, 705 S.E.2d at 479 (“[A]n appellate court should look to the effect of an interlocutory order to

determine its appealability . . .”). As such, it is the effect of the Circuit Court’s order in the present case that makes it immediately appealable, no matter what the order is called or what its primary purpose was intended to be.

B. The Order Erroneously Stated that Amy Annable “Walked in While the Perpetrator’s Hands Remained in Jane Doe’s Pants”

The Analysis Section of the Circuit Court’s Protective Order contains the statement that “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.”

As Appellant pointed out in its Motion to Reconsider, this is not an accurate summary of the 30(b)(6) deposition testimony. Amber Rogers testified to the following in her 30(b)(6) deposition:

Amy was in between monitoring the group that was in the hall while also monitoring the bathroom as the kids came out of stalls. When, you know, she was looking this way, [Child] came – I’m sorry – [Jane Doe] came out of the stall. And [Child] put paper towels or toilet paper – there’s been so much mis – whatever – but I believe she said paper towels at the time – put paper towels down [Jane Doe’s] pants. [Jane Doe] said, No. At the same time, Amy said, No, corrected the behavior with [Child]. And that was the end of it. [Jane Doe] was not upset. [Jane Doe] did not require any other, like, comforting or anything. It was – while she did not see her immediately do it, she saw her while she still had her hands, like, cramming stuff down her pants. In Amy’s estimation, it was a typical childhood goofing off and not any kind of sexual content or inappropriateness, no effort to touch any private parts.

30(b)(6) Deposition of Palmetto Preschool – Amber Rogers 75:23-76:15. This testimony speaks for itself and does not equate to “Amy Annable walked in while the

perpetrator's hands remained in Jane Doe's pants." Moreover, Amy Annable has not yet been deposed in this matter. As previously noted, a crucial defense of Appellant in this case is that the incident that occurred between Jane Doe and another minor child did not constitute a "sexual assault." *See* S.C. Code Ann. § 14-3-330(2). Additionally, Appellant has denied the allegation within Respondents' Complaint that "Defendant Palmetto Preschool possessed actual and/or constructive knowledge of the inappropriate actions Plaintiff Jane Doe suffered yet failed to take any action to prevent the abuse." ***See* Complaint ¶17; Answer ¶7-8; *see also* Morrow**, 412 S.C. at 539, 773 S.E.2d at 147 ("Our review of the trial court order is not constrained by how the order is styled."); *Thornton*, 391 S.C. at 304, 705 S.E.2d at 479 ("[A]n appellate court should look to the effect of an interlocutory order to determine its appealability . . .").

C. The Protective Order Erroneously Stated that "[R]epresentatives 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 Analysis Section of the Protective Order states "[R]epresentatives 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." As Appellant noted in its Motion to Reconsider, this factual finding is unsupported and inaccurate.

As noted in Appellant's Motion to Reconsider, there is no evidence of a "video" of an interview of Jane Doe by Palmetto Preschool. Instead, during the 30(b)(6)

deposition of Palmetto Preschool, Amber Rogers testified that Jennifer Cusack kept notes regarding her investigation of the alleged incident, which included conversations with individuals including Jane Doe; however, Rogers testified the computer containing those notes crashed and was disposed of prior to Palmetto Preschool knowing that any such notes might be needed in this matter, and prior to this lawsuit being filed. **See 30(b)(6) Deposition of Palmetto Preschool - Amber Rogers 68:4-69:25.** Palmetto Preschool was not contacted by the Department of Social Services about this purported incident until December 2021, well over a year after it allegedly occurred. **See 30(b)(6) Deposition of Palmetto Preschool – Amber Rogers 21:8-14.**

Additionally, Amber Rogers testified during the 30(b)(6) deposition of Palmetto Preschool that there was a video surveillance system at one of Palmetto Preschool's locations in 2020, and that video surveillance system did not record audio in 2020. **30(b)(6) Deposition of Palmetto Preschool – Amber Rogers 126:18–129:8.** There is no evidence that a conversation between Jane Doe and any representative of Palmetto Preschool was ever captured on any video; as such, it was both unsupported and inaccurate for the Court to make the factual finding that “representatives of Defendant have already interviewed Jane Doe” and the “corresponding video” does “not appear to have been preserved,” such that “if such information is unavailable the fault may rest with Defendant.”

Palmetto Preschool determined that based on conversations with Jane Doe, the other involved minor child, the teacher, and others, that “there was no sexual nature

to what occurred.” **30(b)(6) Deposition of Palmetto Preschool – Amber Rogers 73:6-13.** As previously noted, Appellant’s defenses include that the incident did not constitute a sexual assault and that the incident was not reported to Appellant as a sexual assault. **See Complaint ¶7-8; Answer ¶7-8.** An inaccurate and unsupported finding that a representative of Palmetto Preschool conducted an interview of Jane Doe that was captured on video, and subsequently not preserved, and that Palmetto Preschool may be at fault for failing to preserve the video, could be interpreted to strike or jeopardize Appellant’s defense in this regard. *See* S.C. Code Ann. § 14-3-330(2); *Kershaw Cnty. Bd. of Educ. v. U.S. Gypsum Co.*, 302 S.C. 390, 394, 396 S.E.2d 369, 372 (1990) (“[W]hen evidence is lost or destroyed by a party an inference may be drawn by the jury that the evidence which was lost or destroyed by that party would have been adverse to that party.”); *Morrow*, 412 S.C. at 539, 773 S.E.2d at 147 (“Our review of the trial court order is not constrained by how the order is styled.”); *Thornton*, 391 S.C. at 304, 705 S.E.2d at 479 (“[A]n appellate court should look to the effect of an interlocutory order to determine its appealability . . .”).

II. The Court Should Not Lift the Automatic Stay Until this Appeal is Resolved

In their Motion to Dismiss for Immediate Relief, Respondents “request the automatic stay be lifted during the pendency of this Court’s decision so the previously scheduled depositions may proceed on May 12, 2025, May 13, 2025, and May 27, 2025.”

As previously noted, Appellant’s defenses in this matter are at issue in this appeal. Such defenses include that the incident did not constitute a sexual assault

and that Appellant did not have knowledge of any alleged assault. It is anticipated that during the depositions at issue, the deponents would be asked questions about the issues presently on appeal. It would therefore seem prudent for this appeal to be resolved before any such depositions take place.

Respectfully submitted,

/s/ Robert E. Kneece III

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ATTORNEYS FOR APPELLANT

May 12, 2025

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CASE NO.: 2023-CP-26-_____
	)	
Mother Doe and Father Doe, Individually	)	
And as the Parents and Natural Guardians	)	SUMMONS
of Jane Doe, a minor	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
Palmetto Preschool & Learning Center,	)	
LLC	)	
	)	
Defendant.	)	
_____	)	

TO THE DEFENDANT ABOVE-NAMED:

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

s/ Julia M. Flumian
 Daniel W. Luginbill SC Bar No. 68525
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Attorneys for the Plaintiffs

April 18, 2023
 Mt. Pleasant, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CASE NO.: 2023-CP-26-_____
	)	
Mother Doe and Father Doe, Individually	)	
And as the Parents and Natural Guardians	)	COMPLAINT
of Jane Doe, a minor	)	(Negligence)
	)	
Plaintiffs,	)	Jury Trial Demanded
	)	
vs.	)	
	)	
Palmetto Preschool & Learning Center,	)	
LLC	)	
	)	
Defendant.	)	
_____	)	

COMES NOW the Plaintiffs, Mother and Father Doe, individually and as the parents and natural guardians for Plaintiff Jane Doe, a minor, by and through their undersigned counsel, hereby brings the following Complaint against Defendant Palmetto Preschool & Learning Center, LLC, and alleges as follows:

PARTIES & VENUE

1. Plaintiffs Mother and Father Doe are citizens and residents of Horry County, South Carolina. The Plaintiffs are the parents and natural guardians of Jane Doe, a minor.
2. Plaintiff Jane Doe is a citizen and resident of Horry County, South Carolina. She is currently nine ("9") years of age. Plaintiff Jane Doe resides with her parents and, at all times mentioned herein, was a student enrolled at Defendant Palmetto Preschool & Learning Center, LLC ("Palmetto Preschool"). During the events detailed herein, Plaintiff Jane Doe was six ("6") years of age.
3. Plaintiffs are using pseudonyms due to the sensitive nature of the subject matter of this action and due to the age of Jane Doe at the time of the allegations contained herein.

4. Defendant Palmetto Preschool is a limited liability company organized pursuant to the laws of the State of South Carolina and, at all times relevant hereto, was conducting business in Horry County, South Carolina. Defendant Palmetto Preschool acted and carried on its business by and through its agents, servants, and/or employees operating within the scope of their officially assigned and/or compensated duties.

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

FACTUAL ALLEGATIONS

6. Plaintiffs moved to Horry County in the summer of 2020 and enrolled Plaintiff Jane Doe and her sister at Defendant Palmetto Preschool at 110 Village Center Boulevard, Myrtle Beach, South Carolina.

7. On or about September 2020, Plaintiff Jane Doe reported to her parents that another child at the school was locking her in a bathroom and sexually assaulting her.

8. Plaintiff Mother Doe reported the assault to the school the day it was reported by her daughter.

9. Plaintiff Jane Doe's teacher, known to the family as "Ms. Amy," assured Plaintiff Mother Doe that Defendant Preschool would investigate the allegations and keep Plaintiff Jane Doe separated from the perpetrator.

10. In reliance on Defendant's employee's statements and believing their child would be protected by the staff, employees, and/or agents of Defendant Preschool, Plaintiff Mother and Father Doe permitted their children to return to Defendant Preschool.

11 Two days later, Plaintiff Jane Doe reported to Plaintiff Mother Doe that the perpetrator had assaulted her again.

12. Following Plaintiff Jane Doe's second report to Plaintiff Mother Doe, she spoke to Defendant Palmetto Preschool's administrator, Jennifer Cusack.

13. Defendant Palmetto Preschool's administrator informed Plaintiff Mother Doe that the school was understaffed, and it was not possible for it to keep Plaintiff Jane Doe separated from her perpetrator.

14. Plaintiff Mother and Father Doe transferred Plaintiff Jane Doe from Defendant Palmetto Preschool on or about September 2020.

15. Plaintiff Jane Doe began counseling to treat depression and anxiety related to the sexual assaults that occurred while attending Defendant Palmetto Preschool.

16. The trauma Plaintiff Jane Doe endured led to depression, anxiety, and suicidal ideations.

17. Upon information and belief, Defendant Palmetto Preschool possessed actual and/or constructive knowledge of the inappropriate actions Plaintiff Jane Doe suffered yet failed to take any action to prevent the abuse.

18. As a direct result of the above actions of Defendant Palmetto Preschool, Plaintiffs have been injured and damaged in that Plaintiff Jane Doe has been deprived of the rights, privileges, and immunities afforded to the citizens of the State of South Carolina and the United States; has been subject to sexual assaults, physical and psychological injuries; has endured and will endure mental anguish and emotional distress; and will incur medical bills in the future; and has been deprived of the enjoyment of her life.

**FIRST A FIRST CAUSE OF ACTION
(Negligence/Gross Negligence)**

19. The above set forth facts are made part of this First Cause of Action through incorporation by reference.

20. The above incidents and Plaintiffs' resulting injuries, sufferings, and damages were

proximately caused by the negligent, grossly negligent, reckless, willful, and wanton acts of

Defendant Palmetto Preschool in the following particulars:

- a. In failing to exercise reasonable or slight care to protect Plaintiff Jane Doe from harm;
- b. In failing to exercise reasonable or slight care to draft and/or institute proper policy and procedure with regard to the supervision of students;
- c. In failing to exercise reasonable or slight care to draft and/or institute proper policy and procedure necessary to ensure that students are safe and protected from physical abuse and threatening behavior;
- d. In failing to exercise reasonable or slight care to draft and/or institute proper policy and procedure that would lead to the discovery of inappropriate, threatening actions by its students and prevent the same from occurring;
- e. In failing to exercise reasonable or slight care to make periodic and proper investigations and take remedial action as might be necessary to prevent inappropriate and/or threatening actions;
- f. In failing to exercise reasonable or slight care to provide Plaintiff with proper protection from abuse (both physical and mental);
- g. In conducting itself in an egregious and arbitrary manner;
- h. In breaching its fiduciary duty of trust with regard to Plaintiffs;
- i. In failing to follow and adhere to the local state and national standards and laws regarding the reporting of complaints of sexual assaults against minors;
- j. In failing to report inappropriate, abusive behavior to the appropriate legal authorities;
- k. In creating a campus environment which subjected Plaintiff Jane Doe to being repeatedly sexually harassed and/or abused;
- l. In failing to have the appropriate policies and procedures in place to provide adequate supervision;
- m. In abdicating its responsibility to provide a safe school environment;
- n. In failing to remedy the improper conduct and actions of its students;

- o. In failing to implement adequate policies and procedures to prevent or deter bullying;
- p. In failing to implement protective measures for Plaintiff Jane Doe when she was exposed to bullying and sexual harassment, which were known or should have been known to Defendant;
- q. In failing to adequately train employees on bullying and sexual assault prevention, bullying and sexual assault incident investigation and response to incidents of bullying and sexual assault;
- r. In holding itself out as being willing and able to protect Plaintiff Jane Doe from abuse, when Defendant knew or should have known it lacked the capacity to do so;
- s. In failing to take reasonable action to adequately investigate complaints regarding Jane Doe; and
- t. In such other particulars as shall be shown as discovery progresses.

21. The injuries suffered by Plaintiffs as a result of the negligent and grossly negligent conduct of Defendant Palmetto Preschool caused and continue to cause her damages, including and not limited to medical expenses, permanent impairment, mental anguish, and pain and suffering. Therefore, Plaintiffs are entitled to actual and consequential damages.

**FOR A SECOND CAUSE OF ACTION
(Necessaries Doctrine)**

22. The above set forth facts are made part of this Second Cause of Action through incorporation by reference.

23. Plaintiffs Mother and Father Doe are the parents and guardians of Jane Doe.

24. As a direct and proximate result of the aforementioned acts on behalf of Defendant Palmetto Primary, Mother and Father Doe have been injured and damaged in actual and consequential damages as follows:

- a. Pretrial medical expenses; and
- b. Post-trial and future medical expenses until Plaintiff Jane Doe reaches the age of majority.

WHEREFORE, Plaintiffs pray for judgment against the Defendants both jointly and in combination thereof for ACTUAL, CONSEQUENTIAL, AND PUNITIVE DAMAGES, costs and reasonable attorney fees. Plaintiff submits that each and every sexual assault presented different injuries and damages which contributed to the overall injuries Plaintiff suffered, as described above.

Respectfully submitted,

s/ Julia M. Flumian

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April 18, 2023

Mt. Pleasant, South Carolina

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

CIVIL ACTION NO: 2023-CP-26-02424

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

Plaintiff,

v.

Palmetto Preschool & Learning Center, LLC,

Defendant

**ANSWER OF DEFENDANT TO
PLAINTIFF'S COMPLAINT**

(Jury Trial Demanded)

**TO: DANIEL W. LUGINBILL, ESQUIRE AND JULIA M. FLUMIAN, ESQUIRE,
ATTORNEYS FOR PLAINTIFF AND TO THE PLAINTIFFS ABOVE NAMED:**

The Defendant, Palmetto Preschool & Learning Center, LLC, by and through its undersigned attorneys, herein files its answer to the Plaintiffs' Complaint and would respectfully show as follows:

FOR A FIRST DEFENSE

1. Each and every allegation of the Plaintiffs' Complaint not hereinafter admitted is expressly denied.
2. Defendant Palmetto Preschool & Learning Center, LLC, admits the allegations of Paragraphs 1 and 2 of this Complaint, upon information and belief.
3. The allegations in Paragraph 3 of the Complaint are not addressed to Defendant and require no response.
4. As to the allegations of Paragraph 4 of the Complaint, Defendant Palmetto Preschool & Learning Center, LLC, admits that it is a business organized under the laws of South Carolina. It, through its employees, provides childcare services in Horry County, South Carolina. The remainder of the paragraph is denied as stated and to the extent inconsistent with the law of South Carolina.

5. As to Paragraph 5 of the Complaint, this Defendant would admit that this court has jurisdiction and that venue is proper in Horry County.

6. Paragraph 6 is admitted.

7. Paragraphs 7-18 contain allegations filled with inaccuracies such that a general denial is appropriate.

8. Paragraphs 19-24 contain legal conclusions that require no response. To the extent that allegations are made or a response is required, they are denied.

FOR A SECOND DEFENSE

9. The Defendant would show, upon information and belief, that the Complaint fails to state facts sufficient to constitute a cause of action pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure and, the Plaintiff's Complaint should be dismissed with costs.

FOR A THIRD DEFENSE

10. Defendant Palmetto Preschool & Learning Center, LLC, would show that any damages sustained by the Plaintiff were the result of an intervening and/or criminal act of a third person beyond the control of this Defendant and that such intervening and/or criminal act was not intended or directed by this Defendant and could not be foreseen or controlled by this Defendant, and any causal connection between any alleged negligence of this Defendant and the incident with Plaintiff is broken by such intervening and/or criminal act.

FOR A FOURTH DEFENSE

11. Such injury or loss as the Plaintiff sustained, if any, as alleged in the Complaint, was proximately caused and occasioned by the sole negligence, gross negligence, willfulness and wantonness of a third party, in failing to exercise due care and reasonable care, which was the

direct and proximate cause of injuries or losses suffered by the Plaintiff, if any, and without which the same would not have occurred. Therefore, the Defendant pleads the sole negligence, willfulness, wantonness, carelessness, recklessness, and gross negligence of a third party as a complete bar to this action against it.

FOR A FIFTH DEFENSE

12. This Defendant would show, upon information and belief, that at all times relevant to the allegations of the Plaintiffs' Complaint, the conduct of this Defendant conformed to the applicable standard of care for a childcare facility and its caregiver employees in the care provided to Plaintiff R.C.

FOR A SIXTH DEFENSE

13. This Defendant would show, upon information and belief, that the Plaintiff's claim for punitive damages violates the Fifth, Sixth, Seventh, Eighth and Fourteenth Amendments to the Constitution of the United States of America in that it violates the double jeopardy clause in that this Defendant could be subjected to multiple awards of punitive damages for the same set of facts; the self-incrimination clause is being violated because this Defendant can be compelled to give testimony against itself in a penalty situation such as punitive damages; the assessment of punitive damages by a burden of proof less than beyond a reasonable doubt is violative of the Sixth and Fourteenth Amendments in that punitive damages are a fine or penalty and are, therefore, quasi-criminal in nature; Plaintiff's claim for punitive damages violates this Defendant's right to access the courts as guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of punitive damages chills this Defendant's exercise of that right; the Plaintiff's claim for punitive damages violates the Eighth Amendment's guarantee that excessive fines shall not be imposed, the Plaintiff's claim for punitive damages violates both the due process and equal

protection clauses of the Fourteenth Amendment in that the standard for awarding either punitive damages is unduly vague and, therefore, violates both procedural and substantive due process safeguards; therefore, the Plaintiff's claim for punitive damages should be dismissed.

FOR A SEVENTH DEFENSE

14. Any award of punitive damages should not exceed the limitation on damages as provided for in S.C. Code Ann. §15-32-530.

FOR AN EIGHTH DEFENSE

15. Pursuant to S.C. Code Ann. §15-32-520, any proceeding to determine punitive damages should be bifurcated from any trial to determine liability and compensatory damages.

WHEREFORE, having fully answered the Plaintiff's Complaint, Defendant Palmetto Preschool & Learning Center, LLC, respectfully requests that the Complaint be dismissed as set forth above, with costs, and for such other and further relief as the Court deems just and proper as to the remaining claims.

Defendant also demands a jury trial.

Respectfully submitted,

MURPHY & GRANTLAND, P.A.

s/ Peter E. Farr

Peter E. Farr, Esquire,

SC Bar No.: 73658

MURPHY & GRANTLAND, P.A.

PO Box 6648

Columbia, South Carolina 29260

(803) 782-4100

Attorneys for Defendant Palmetto Preschool & Learning Center, LLC,

Columbia, South Carolina

Turner Padget

REPLY TO:
Robert E. Kneece III
E-Mail: RKneece@TurnerPadget.com
Writer's Direct Dial: 843-576-2829
Writer's Direct Fax: 843-577-1639

October 29, 2024

Via E-mail: dluginbill@mcgowanhood.com

jflumian@mcgowanhood.com

Daniel W. Luginbill

Julia M. Flumian

McGowan Hood Felder & Phillips, LLC

10 Shem Drive, Suite 300

Mount Pleasant, SC 29464

Re: Mother Doe and Father Doe, individually and as the Parents and Natural Guardians of Jane Doe, a minor v. Palmetto Preschool & Learning Center, LLC

Docket No.: 2023-CP-26-02424

Claim No: 22475282

TP File No.: 00309.00177

Dear Daniel and Julia:

We enclose the Notice of Deposition of Plaintiff [REDACTED], the Notice of Deposition of Plaintiff [REDACTED] and the Notice of Deposition of Plaintiff Jane Doe, a Minor setting same for Friday, November 15, 2024 beginning at 11:00 a.m. at McGowan Hood Felder & Phillips, LLC located at 10 Shem Drive, Second Floor, Suite 200, Mount Pleasant, SC 29464. Please notify your clients of these events. We will schedule the court reporter.

With kind regards,

Turner Padget Graham & Laney, P.A.



Robert E. Kneece III

RK:smk
Enclosures

EXHIBIT C

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF HORRY) Docket No.: 2023-CP-26-02424

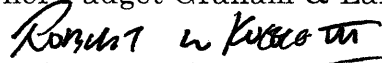
MOTHER DOE AND FATHER DOE,)
INDIVIDUALLY AND AS THE)
PARENTS AND NATURAL)
GUARDIANS OF JANE DOE, A MINOR,)
)
Plaintiff,)
)
v.)
)
PALMETTO PRESCHOOL &)
LEARNING CENTER, LLC,)
)
Defendant.)

**NOTICE OF DEPOSITION OF
PLAINTIFF, [REDACTED]**

PLAINTIFF AND ATTORNEY FOR PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that on Friday, November 15, 2024 at 11:00 a.m., at McGowan Hood Felder & Phillips, LLC, 10 Shem Drive, Suite 300, Mount Pleasant, SC 29464, the attorney for Defendant will depose Plaintiff [REDACTED] in the above-referenced lawsuit before a Notary Public for South Carolina, and thereafter, from day to day as the taking of the deposition may be adjourned. The deposition is to be taken either for discovery purposes or for evidence at the trial of this case, or both, and all purposes allowed by Rule 30 of the South Carolina Rules of Civil Procedure. You are hereby notified to appear and take such part in the examination as you may be advised and as shall be fit and proper.

Turner Padget Graham & Laney, P.A.



Robert E. Kneece III

SC Bar No. 101279

Post Office Box 22129

Charleston, South Carolina 29413

Direct: 843-576-2829; Fax: 843-577-1639

RKneece@TurnerPadget.com

ATTORNEY FOR DEFENDANTS

Charleston, South Carolina
October 29, 2024

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF HORRY) Docket No.: 2023-CP-26-02424

MOTHER DOE AND FATHER DOE,)
INDIVIDUALLY AND AS THE)
PARENTS AND NATURAL)
GUARDIANS OF JANE DOE, A MINOR,)
)
Plaintiff,)
)
v.)
)
PALMETTO PRESCHOOL &)
LEARNING CENTER, LLC,)
)
Defendant.)

**NOTICE OF DEPOSITION OF
PLAINTIFF, [REDACTED]**

PLAINTIFF AND ATTORNEY FOR PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that on Friday, November 15, 2024 at 12:00 p.m., at McGowan Hood Felder & Phillips, LLC, 10 Shem Drive, Suite 300, Mount Pleasant, SC 29464, the attorney for Defendant will depose Plaintiff [REDACTED] in the above-referenced lawsuit before a Notary Public for South Carolina, and thereafter, from day to day as the taking of the deposition may be adjourned. The deposition is to be taken either for discovery purposes or for evidence at the trial of this case, or both, and all purposes allowed by Rule 30 of the South Carolina Rules of Civil Procedure. You are hereby notified to appear and take such part in the examination as you may be advised and as shall be fit and proper.

Turner Padget Graham & Laney, P.A.



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Charleston, South Carolina 29413

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ATTORNEY FOR DEFENDANTS

Charleston, South Carolina

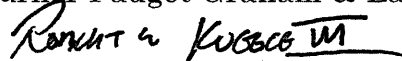
October 29, 2024

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	Docket No.: 2023-CP-26-02424
MOTHER DOE AND FATHER DOE,	)	
INDIVIDUALLY AND AS THE	)	
PARENTS AND NATURAL	)	
GUARDIANS OF JANE DOE, A MINOR,	)	NOTICE OF DEPOSITION OF
	)	PLAINTIFF, JANE DOE, A MINOR
Plaintiff,	)	
	)	
v.	)	
	)	
PALMETTO PRESCHOOL &	)	
LEARNING CENTER, LLC,	)	
	)	
Defendant.	)	

PLAINTIFF AND ATTORNEY FOR PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that on Friday, November 15, 2024 at 1:00 p.m., at McGowan Hood Felder & Phillips, LLC, 10 Shem Drive, Suite 300, Mount Pleasant, SC 29464, the attorney for Defendant will depose Plaintiff Jane Doe, a Minor, in the above-referenced lawsuit before a Notary Public for South Carolina, and thereafter, from day to day as the taking of the deposition may be adjourned. The deposition is to be taken either for discovery purposes or for evidence at the trial of this case, or both, and all purposes allowed by Rule 30 of the South Carolina Rules of Civil Procedure. You are hereby notified to appear and take such part in the examination as you may be advised and as shall be fit and proper.

Turner Padget Graham & Laney, P.A.



Robert E. Kneece III

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Charleston, South Carolina 29413

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RKneece@TurnerPadget.com

ATTORNEY FOR DEFENDANTS

Charleston, South Carolina
October 29, 2024

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

)

COUNTY OF HORRY

) Docket No.: 2023-CP-26-02424

MOTHER DOE AND FATHER DOE,)
INDIVIDUALLY AND AS THE)
PARENTS AND NATURAL)
GUARDIANS OF JANE DOE, A MINOR,)

CERTIFICATE OF SERVICE

Plaintiff,

v.

PALMETTO PRESCHOOL &)
LEARNING CENTER, LLC,)

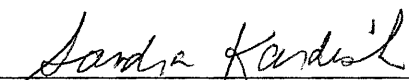
Defendant.

On October 29, 2024, I e-mailed a copy of *Notice of Deposition of Plaintiff* [REDACTED] *the Notice of Deposition of Plaintiff* [REDACTED] *and the Notice of Deposition of Plaintiff Jane Doe, a Minor* to:

Daniel W. Luginbill
Julia M. Flumian
McGowan Hood Felder & Phillips, LLC
10 Shem Drive, Suite 300
Mount Pleasant, SC 29464

dluginbill@mcgowanhood.com
jflumian@mcgowanhood.com

Attorneys for Plaintiff



Sandra Kardish

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CASE NO.: 2023-CP-26-02424
	)	
Mother Doe and Father Doe, Individually	)	
And as the Parents and Natural Guardians	)	
of Jane Doe, a minor	)	
	)	MOTION FOR PROTECTIVE
Plaintiffs,	)	ORDER BARRING DEPOSITION
	)	OF PLAINTIFF JANE DOE, A
vs.	)	MINOR CHILD
	)	
Palmetto Preschool & Learning Center,	)	
LLC	)	
	)	
Defendant.	)	
_____	)	

YOU WILL PLEASE TAKE NOTICE that Plaintiffs, by and through their undersigned counsel, will move on the tenth (10th) day after service or as soon thereafter as counsel may be heard, before the Presiding Judge of the Fifteenth Judicial Circuit, Horry County Court of Common Pleas, for a Protective Order barring the deposition of Plaintiff Jane Doe, a minor child, pursuant to Rule 26(c).

This Protective Order is required because Defendant Palmetto Preschool & Learning Center, LLC (“Defendant Palmetto Preschool”), through its counsel, has requested the deposition of Plaintiff Jane Doe, currently age ten, despite knowledge of the irreparable harm she will suffer as a result. Plaintiffs allege Plaintiff Jane Doe was sexually assaulted at Defendant Palmetto Preschool by another student. Defendant’s request to depose Plaintiff Jane Doe creates a particularized harm as contemplated by Rule 26(c) and as confirmed by her treating mental health counselor, Shavonne Myers, LPC, and there are reasonable alternatives available to Defendant Palmetto Preschool to discover any information Plaintiff Jane Doe may have which have been rejected by its counsel.

For the foregoing reasons, as well as those to be asserted and more fully stated in any memorandum of law filed by Plaintiffs in support of this Motion and by any arguments made at a hearing on the motion, and without waiving any arguments, Plaintiffs Mother and Father Doe respectfully request this Court for a Protective Order to be issued to bar any deposition of Plaintiff Jane Doe.

Respectfully submitted,

s/ Julia M. Flumian

Daniel W. Luginbill SC Bar No. 68525

Julia M. Flumian SC Bar No. 77617

McGowan Hood Felder & Phillips, LLC

10 Shem Dr., Suite 300

Mt. Pleasant, SC 29464

Phone: (843) 268-4623

Fax: (843) 388-3194

Email: dluginbill@mcgowanhood.com

jflumian@mcgowanhood.com

Attorneys for the Plaintiff

November 14, 2024
Mt. Pleasant, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	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' MEMORANDUM IN
Plaintiffs,	)	SUPPORT OF THEIR MOTION
	)	FOR PROTECTIVE ORDER
vs.	)	
	)	
Palmetto Preschool & Learning Center,	)	
LLC	)	
	)	
Defendant.	)	
_____	)	

Plaintiffs respectfully submit their memorandum in support of their motion for a protective order.

INTRODUCTION

On November 14, 2024, Plaintiffs filed their motion for a protective order to prevent Defendant Palmetto Preschool & Learning Center, LLC (“Palmetto Preschool”) from taking the deposition of Jane Doe, a ten-year-old girl who was sexually assaulted at its Carolina Forest location in 2020. Plaintiffs’ motion should be granted because it is necessary to protect a minor child from severe emotional trauma, the discovery sought is obtainable from another more convenient and less burdensome source, Defendant Palmetto Preschool has previously obtained the discovery sought, and the proposed deposition is unlikely to lead to reliable testimony.

FACTS

This case arises out of the sexual assault of Jane Doe, a minor child, while she was a student at Defendant Palmetto Preschool. Jane Doe is currently 10 years old. At all times relevant hereto, she was six 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. [Ex. 1, 18:4-19:17] On or about August 27, 2020, Jane Doe told Mother Doe that another child enrolled at Defendant Palmetto Preschool had sexually assaulted her in a bathroom stall by blocking the door, pulled on her underwear, and tried to put the toilet paper and the cardboard piece in her vagina area. [Ex. 1, 23:22-24:5].

Thereafter, Mother Doe reported the sexual assault to Defendant Palmetto Preschool. Mother Doe spoke to Jane Doe's teacher, Anna Annable, the next day and told her about the assault. Mother Doe then walked over to Jennifer Cusack, the then-director of Defendant Palmetto Preschool, to report the matter. In response to this report, Ms. Cusack assured Mother Doe she would investigate the assault. [Ex. 2, 39:9-18]. Neither Ms. Cusack nor Ms. Annable informed Plaintiff Mother Doe they were already on notice of the assault as Ms. Annable had been in the bathroom area at the time it occurred and had seen the perpetrator "while she still had her hands, like, cramming stuff down (Jane Doe's) pants." [Ex. 3, 74:10-12].

Ms. Cusack informed Mother Doe the following day that she had spoken with the perpetrator's parents and offered assurances that she would separate Jane Doe from the perpetrator in the future. [Ex. 2, 39:9-18]. Ms. Cusack did not disclose to Mother Doe that she had interviewed Jane Doe as part of her investigation. All notes related to Ms. Cusack's investigation, including any she took regarding her interview of Jane Doe, have been lost or destroyed. [Ex. 3, 67:7-71:13]. Mother and Father Doe, relying upon the assurances from Defendant Palmetto Preschool's employees that their daughter would be safe, permitted Jane Doe to return. [Ex. 2, 45:8-13]. Thereafter, Jane Doe reported to her mother that she had been sexually assaulted a second time by the same child, again in a bathroom, and was pulling at her underwear, trying to insert wadded-up toilet paper in her vagina. [Ex. 2, 41:1-6]. Mother and Father Doe removed Jane Doe from

Defendant Palmetto Preschool as soon as they were able to find an alternative remote learning program. [Ex. 2, 47:12-25]. Their other child remained at Defendant Palmetto Preschool for the remainder of the 2020-2021 school year. [Ex. 4, 64:8-15].

In the weeks and months that followed, Mother and Father Doe observed behaviors by Jane Doe they found concerning, including suicidal ideation and masturbating in front of peers. [Ex. 4, 64:19-66:17]. Mother Doe researched appropriate providers in the area and found Shavonne Myers, M.A., LPC, with H.O.P.E. Counseling Services, LLC. [Ex. 4, 68:3-71:8]. During the initial intake process, Mother Doe informed Ms. Myers about the sexual assaults at Defendant Palmetto Preschool. On October 29, 2021, Ms. Myers reported the assaults to DSS as she is a mandatory reporter. [Ex. 5]. Jane Doe began weekly therapy with Ms. Myers in October 2021. After several months of rapport building, Jane Doe discussed the sexual assault with Ms. Myers on January 17, 2022. Jane Doe remains in therapy with Ms. Myers, seeing her biweekly.

Plaintiffs' Complaint was filed on April 18, 2023. Defendant Palmetto Preschool requested Jane Doe's deposition on September 18, 2024. Counsel for the parties discussed the request on October 1, 2024. On October 8, 2024, Counsel for Defendant Palmetto Preschool informed Plaintiffs' counsel that he had spoken with his client and "we need to and are entitled to depose the minor Plaintiff." [Ex. 6]. Defense counsel went on to explain that he had discussed with his client the idea of deposing the therapist first, "and we still believe it is vital that we depose the minor, regardless of whether the therapist is deposed." [Ex. 6]. The instant motion was filed thereafter.

ARGUMENT

Plaintiffs' motion for protective order should be granted as it is necessary to protect a minor child from severe emotional trauma, the discovery sought is obtainable from another more

convenient and less burdensome source, Defendant Palmetto Preschool has already questioned Jane Doe, and the proposed deposition of Jane Doe is unlikely to result in reliable testimony.

1. Plaintiff Jane Doe should be protected against severe emotional trauma

Upon motion and for good cause shown, the court may make any order which justice requires to protect a party or person from annoyance, embarrassment, or oppression, including that the discovery not be had. SCRCP 26(c). “If the discovery process threatens to become abusive or create a particularized harm to a litigant or third party, the trial judge may issue an order “to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense.”” Hollman v. Woolfson, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009), citing Rule 26(c), SCRCP; Hamm v. S.C. Pub. Serv. Comm’n, 312 S.C. 238, 439 S.E.2d 852 (1994). “If a 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 is required to weigh the factors of whether the information sought is “relevant and necessary” against any particularized harm the opposing party may suffer. Id.

Jane Doe’s current treatment provider, Shavonne Myers, LPC, has outlined her concerns regarding the danger posed by Defendant Palmetto Preschool’s request for her deposition in Exhibit 7. Specifically, it is Ms. Myers’s opinion 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.” [Ex. 7] 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." [Ex. 7]

In addition to Ms. Myers's opinion of her patient, there is additional evidence that Defendant Palmetto Preschool will use Jane Doe's deposition as an opportunity to traumatize and upset her. Defendant Palmetto Preschool's counsel previously deposed Mother and Father Doe. They were asked many invasive and embarrassing questions, including:

- a. Penetration, including if objects were inserted into Jane Doe's vagina [Ex. 1, 25:25-26:9; Ex. 2, 42:2-11; Ex. 8, 38:19-23; 44:20-23]
- b. "Did she make any indication as to what had led to this interaction?" [Ex. 1, 26:10-12]
- c. How long the assaults lasted [Ex. 8, 45:17-20]
- d. If Jane Doe had been "experiencing any sort of sensation in her private areas prior to the incident." [Ex. 1, 26:12-17]
- e. Jane Doe's masturbation in front of others [Ex. 4, 77:18-78:20; Ex. 8, 72:13-73:12; 82:2-15]
- f. The connection between Jane Doe's behavioral issues and the assaults [Ex. 4, 82:18-84:1]
- g. The mental health of Mother and Father Doe's extended families [Ex. 4, 84:2-12, Ex. 8, 69:18-25]
- h. Substance abuse of Mother and Father Doe's extended families [Ex. 4, 84:2-12, Ex. 8, 70:1-24]
- i. Mother Doe's family members' experience with sexual abuse [Ex. 4, 84:13-25]
- j. Mother Doe's personal history of sexual abuse [Ex. 4, 84:24-86:4]

These questions are inappropriate for the deposition of a child sexual abuse survivor. As well-intentioned as Defense counsel may be in the questions he intends to ask Jane Doe, that

intention is not a substitute for the training, education, and experience necessary for an effective and appropriate examination of a child sex abuse victim.

2. The discovery sought is obtainable from another more convenient and less burdensome source.

The South Carolina Supreme Court in Hollman explained that to determine if the information sought 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 a merely possible, threat.” Id. at 578, 498. The trial court must determine whether there are reasonable alternatives available to discover the information. Id.

Plaintiffs’ counsel previously offered Defense counsel first take the deposition of Shavonne Myers, LCP, so that he may explore the information she has regarding Jane Doe’s disclosures and determine if there was any need to pursue the deposition of Jane Doe thereafter. [Ex. 6]. In response, Defense counsel indicated that a deposition of Ms. Myers would be less effective as she did not interview Jane Doe until more than a year had passed after the assaults. In response, Plaintiff’s counsel explained that while this is true, Ms. Myers’s interview was conducted much closer in time to any deposition that may be taken by Defense counsel. Assuming it is true that the closer in time to the conversation, the more reliable the information provided, a deposition taken by an attorney nearly five years after the events would be less reliable than a deposition of a professional who is trained in interviewing children, who built rapport with Jane Doe, and who documented her interview.

3. Defendant Palmetto Preschool has previously obtained the information sought

The deposition of Jane Doe is unnecessary as Defendant Palmetto Preschool has previously obtained the information it seeks.

Defendant Palmetto Preschool has already interviewed Jane Doe without her parents' knowledge or permission. On or about the week of August 24-28, Defendant Palmetto Preschool employee Jennifer Cusack interviewed Jane Doe regarding the first incident. Ms. Cusack documented her investigation into the first assault. [Ex. 3, 70:25-71:5]. However, those notes were not backed up, forwarded, or preserved before Defendant Palmetto Preschool "chunked" her computer into a dumpster after it "crashed." [Ex. 3, 67:7-71:5]. Additionally, Defendant Palmetto Preschool has video surveillance in its facility, which would have enabled Ms. Cusack to have a copy of the interview. If a video of the interview was created, it has not been preserved. [Ex. 9: 126:18-129:16]. Defendant Palmetto Preschool should not be permitted to subject a child to an intrusive deposition because it failed to preserve evidence related to its negligence.

4. The deposition of Jane Doe is unlikely to lead to reliable testimony

In order to be competent to testify, a witness must "have the ability (1) to perceive the event with a substantial degree of accuracy, (2) remember it, (3) communicate about it intelligibly, and (4) be mindful of the duty to tell the truth under oath." State v. Needs, 333 S.C. 134, 143, 508 S.E.2d 857, 861 (1998). The requested method by which Defendant Palmetto Preschool intends to require Jane Doe to testify is unlikely to allow her to meet this competency requirement¹.

The method by which a child is interviewed regarding abuse is critically important as it can traumatize the child and lead to unreliable testimony. "Even when they are interviewed in the best of circumstances by well-trained personnel, children who have been abused often resist disclosure."² In a 1992 study, it was determined that 57% of the interviewed children in a sample

¹ Florida recently enacted 92.55(6), which added special protections for victims of sexual crimes. It requires a court order before a victim under the age of 16 and sets out five factors the court must consider, including whether the victim has already been subject to a forensic interview. There is a presumption against allowing victims under the age of 12 to be subject to depositions at all. When a deposition is allowed the questions must be submitted to the court for approval.

² *Cultural Issues in Disclosures of Child Sexual Abuse*. Fontes & Plummer, *Journal of Child Sexual Abuse*, 19:491-518, 2010 [Exhibit 10]

initially denied sexual abuse that was later confirmed through the diagnosis of an STD. Id. This same study found that disclosure rates were 3.5 times greater when the nonoffending caretaker accepted the possibility of abuse. Id. “As research indicates, clumsy interviewing can affect the accuracy, detail, and quality of a child’s disclosure of sexual abuse.”³

It is unlikely a deposition would result in reliable testimony because Jane Doe will have no relationship with the attorney deposing her. “Rapport is needed for the child to feel supported, empowered, and encouraged in the relationship to speak up when they do not understand a question or to say if they do not know the answer.”⁴

Mother Doe is a registered nurse who testified Jane Doe disclosed both assaults to her on the days they occurred. Mother Doe described what she recalled from those disclosures, including that Jane Doe was very fearful and hesitant to talk to her about it. Jane Doe was crying during her disclosures to her mother. Jane Doe did not disclose the abuse to her father, who has not addressed it directly with her as he does not wish to upset her. [Ex.8, 51:17-24]. Jane Doe did not disclose the abuse to Ms. Myers until her seventh visit. If past behavior is the greatest predictor of future behavior, it is probable that Jane Doe will not disclose the abuse to a man or to someone she does not know and trust.

In the instant case, it is probable Jane Doe will be met with embarrassing and intrusive questions posed to her by someone she does not know, who is not trained in forensic interviews, and who is ethically obligated to zealously advocate for his client, including to disbelieve and dispute her testimony. Such an environment would compound the damages already suffered by Jane Doe and result in unreliable testimony.

³ *How Sexual Abuse Interviews Go Astray: Implications for Prosecutors, Police, and Child Protection Services*. Wood, J.M. & Garven, S. *Child Maltreatment*, 5(2), 109-118 (2000). [Exhibit 11]

⁴ *Children’s Needs During Disclosures of Abuse*. Ettinger. *SN Social Sciences*, 2:101 (2022) [Exhibit 12]

CONCLUSION

Based on the arguments stated above, Plaintiffs respectfully request the Court to grant their motion for a protective order.

s/Julia M. Flumian

Daniel W. Luginbill SC Bar No. 68525

Julia M. Flumian SC Bar No. 77617

McGowan Hood Felder & Phillips, LLC

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Email: dluginbill@mcgowanhood.com

jflumian@mcgowanhood.com

Attorneys for the Plaintiff

February 14, 2025

Mt. Pleasant, South Carolina

1 was a 50/50 split of who would do that. Is that
2 fair or would you say it's different than that?

3 A. No. That was a fair assessment.

4 Q. When she was in school that summer, was
5 that different than the normal program that would
6 happen from like fall, winter, and spring or was it
7 just year around the same program at Palmetto
8 preschool?

9 A. We enrolled her for the summer camp
10 program.

11 Q. So the summer camp program, is that
12 different than what she would do starting in the
13 fall, for instance?

14 A. If it wasn't for COVID she would have just
15 been in first grade in the fall. It was, yes, a
16 different program.

17 Q. So she could have gone to first grade that
18 fall, but couldn't because of COVID?

19 A. She did go to first grade in the fall, but
20 it was only two days a week at River Oaks
21 Elementary due to COVID.

22 Q. So the fall of 2020 she started going to
23 River Oaks Elementary?

24 A. Yes, correct.

25 Q. Two days per week?

1 A. Correct. Because of COVID all of the
2 children were doing a hybrid schedule as they
3 called it.

4 Q. So the other three days a week, what would
5 she do?

6 A. That was virtual learning, and I selected
7 Palmetto preschool for that virtual learning
8 environment.

9 Q. But during the summer, was that in person
10 at Palmetto preschool?

11 A. Correct. The summer program was five days
12 per week full time normal business hours,
13 drop-off in the morning, pickup in the evening,
14 and then the fall, which by "fall" for this
15 conversation I will define as the end of the summer
16 break, and in South Carolina that's ends
17 August-ish.

18 Q. Do you remember who her teachers or
19 instructors were at Palmetto preschool that summer?

20 A. Mostly the teacher in her classroom was
21 Miss Amy.

22 Q. Is that Amy Annable?

23 A. I never knew her last name.

24 Q. Do you know of any other teachers or
25 assistants or anyone else that would have been

1 [REDACTED] teacher or classroom helper or anything
2 like that?

3 A. The only other name I recall was Miss
4 Jocelyn.

5 Q. Do you know Jocelyn's last name?

6 A. I do not.

7 Q. Which location of Palmetto preschool was
8 [REDACTED] going to in the summer of 2020?

9 A. I would drop her off in the morning at the
10 Carolina Forest location, and we would pick her up
11 from the Carolina Forest location.

12 Q. Do you know if they would relocate to any
13 of the other locations at any point during the
14 middle of the day?

15 A. From my understanding they did bring them
16 to The Market Common or Myrtle Beach location.

17 Q. Do you know if they would do that every
18 day or just certain days?

19 A. I don't recall.

20 Q. Your husband had indicated that you all
21 would drop [REDACTED] off sort of at the front door
22 of the school rather than walking her to the
23 classroom. Is that accurate?

24 A. Initially with the COVID procedures, yes,
25 we would go to the front lobby, and they would scan

1 for fevers, and then they would walk them down what
2 appeared to be a long hallway towards the
3 individual classrooms.

4 Q. You said initially. Did that change at
5 some point?

6 A. At some point as we moved further away
7 from the COVID crisis so to speak, yes.

8 Q. So was there a point where you would
9 actually walk her down to her classroom?

10 A. Correct.

11 Q. Have you ever gone in the restrooms at any
12 of the Palmetto preschool facilities?

13 A. The parents were only allowed to access
14 the visitors bathroom in the front lobby.

15 Q. Do you have an understanding of what
16 bathroom this occurred at?

17 A. [REDACTED] described it as the classroom
18 bathroom.

19 Q. I know a lot of preschool classrooms have
20 bathrooms that are like part of the classroom or
21 right next to it. Is that what you mean or can you
22 describe what you mean by the classroom bathroom?

23 A. I can only assume based on what [REDACTED]
24 told me because we were not allowed in the
25 classroom. We could only walk to the door.

1 Q. Have you ever been in that bathroom?

2 A. No. We were not allowed in that bathroom
3 or the classrooms themselves.

4 Q. Did you know any of [REDACTED] classmates'
5 parents?

6 A. No.

7 Q. Did you know any of the school
8 administrators or teachers at Palmetto preschool on
9 like a personal level?

10 A. Outside of the school environment? Is
11 that what you're asking me?

12 Q. Yes.

13 A. No.

14 Q. How did you come to find out about the
15 incidents at Palmetto preschool?

16 A. [REDACTED] told me.

17 Q. Where were you when she told you?

18 A. To the best of my recollection we were at
19 home.

20 Q. Do you remember where you were in your
21 home?

22 A. In my memory we were upstairs.

23 Q. Do you know what particular room,
24 [REDACTED] room, your room?

25 A. [REDACTED] room or perhaps the loft.

1 bathroom with her, but then came into the stall
2 itself and closed the stall door, and [REDACTED] said
3 that she tried to put the toilet paper and the
4 cardboard piece inside of the toilet paper roll in
5 her vagina area and was pulling at her underwear.

6 Q. Do you recall any other details that
7 [REDACTED] told you about?

8 A. [REDACTED] was very upset and tearful during
9 the conversation. She said that [REDACTED] was blocking
10 the stall door, and she couldn't get out.

11 Q. We can take a break if you need to take a
12 break.

13 A. We can continue.

14 Q. Did you understand who [REDACTED] was in terms
15 of Nora's last name?

16 A. No.

17 Q. Did you know who [REDACTED] was as in like when
18 you would drop [REDACTED] off, would you recognize
19 Nora by sight?

20 A. When she described the incident, she had
21 to describe her to me because I didn't know who she
22 was before that time, but once she described her to
23 me I knew who she was.

24 Q. Do you know [REDACTED] parents?

25 A. I do not.

1 Q. Do you know when this conversation took
2 place?

3 A. It was after school hours. I can't recall
4 if it was right at bedtime or just after dinner,
5 but it was after we had left the school. We were
6 already at home.

7 Q. Do you know a particular date that it
8 occurred on?

9 A. I do not recall the date.

10 Q. Do you have any sense of the week or the
11 month when this would have occurred?

12 A. My sense is that it was late August.

13 Q. What leads you to that?

14 A. That's just how I remember it.

15 Q. Do you have any way to go back and place
16 when this happened such as did you make any
17 particular phone calls that you can recall or was
18 there anything going on in your life around that
19 same time that would allow you to pinpoint when you
20 all had this conversation?

21 A. No.

22 Q. So what did [REDACTED] tell you in this
23 conversation?

24 A. She told me that her and [REDACTED] were
25 bathroom buddies and that [REDACTED] had gone into the

1 Q. Have you ever spoken to them about any of
2 this?

3 A. I've never met them.

4 Q. Was there anything else that [REDACTED] told
5 you about this incident beyond what you just
6 described?

7 A. Can you clarify the question a little
8 further?

9 Q. Sure. So what you just said was that
10 [REDACTED] told you she and [REDACTED] were bathroom
11 buddies. [REDACTED] came into the stall, closed the stall
12 door, [REDACTED] said that Nora tried to put toilet
13 paper and the toilet paper roll inside of
14 [REDACTED] privates, and that she was pulling at
15 her underwear.

16 Does that fairly summarize what you just
17 stated with regards to what [REDACTED] told you?

18 A. Correct.

19 Q. And that [REDACTED] also was blocking the stall
20 doors.

21 So my question was were there any other
22 details about the incident that [REDACTED] told you
23 about?

24 A. That's what I recall.

25 Q. Did [REDACTED] indicate whether or not

1 anything had actually penetrated her privates?

2 A. I didn't ask her that question. She was
3 only 6 years old.

4 Q. Did she make any indication about that?

5 A. No. I didn't ask her that question.

6 Q. Regardless of whether you had asked her
7 the question had she volunteered any information
8 about that?

9 A. No.

10 Q. Did she make any indication as to what had
11 led to this interaction?

12 A. She did not.

13 Q. Did [REDACTED] ever say that prior to the
14 interaction she had been experiencing any sort of
15 like sensation or anything in her private areas
16 prior to the incident?

17 A. No.

18 Q. Do you recall any other details about your
19 conversation with [REDACTED] that evening?

20 A. I asked her to show me her vagina. I
21 wanted to make sure that there were no injuries or
22 anything like that.

23 Q. Obviously I'm sorry to have to ask you
24 these kind of questions.

25 Did you observe anything abnormal?

1 Q. On that evening did she specifically
2 indicate that this had occurred in the classroom
3 bathroom?

4 A. The bathroom at school.

5 Q. So she just said the bathroom at school;
6 she didn't offer anything more specific than that
7 with regards to which particular bathroom?

8 A. No.

9 Q. Did she indicate that any teachers had
10 become involved in the incident at any point?

11 A. No.

12 Q. Did she indicate whether she had told a
13 teacher about it?

14 A. No.

15 Q. Did she say she hadn't told a teacher or
16 she just didn't say one way or the other whether a
17 teacher had been informed?

18 A. She didn't say.

19 Q. How long would you say your conversation
20 with her lasted that evening?

21 A. I wouldn't be able to give you that in
22 minutes.

23 Q. Do you feel like it was just a matter of a
24 few minutes? Was it a lengthy conversation like a
25 30 minute or hour-long conversation?

1 A. I didn't see any scratches. I didn't do
2 an internal exam or anything along those lines. I
3 just asked her to pull her underwear down so I
4 could make sure that there was nothing very
5 obvious.

6 Q. Was there any toilet paper or anything in
7 her underwear or anything like that?

8 A. I don't recall at that time.

9 Q. How would you describe [REDACTED] demeanor
10 through the conversation?

11 A. She was very fearful. She was hesitant to
12 even talk to me about it. She was upset and
13 crying.

14 Q. Did she indicate whether there was anybody
15 else in the bathroom?

16 A. She did not say anyone else was there.

17 Q. Did she indicate how long the incident had
18 taken place, like whether it was over a matter of
19 seconds or whether it was longer than that, minutes
20 or anything like that?

21 A. No.

22 Q. Did she make any indication as to where or
23 how [REDACTED] had gotten the toilet paper, like the
24 cardboard toilet paper roll?

25 A. No.

1 A. It was very traumatic. It felt like it
2 took forever from an emotional point of view. I
3 don't know how long it took in minutes.

4 Q. Did she ever cry at any point during the
5 conversation?

6 A. She was crying during the conversation,
7 yes.

8 Q. In terms of yourself, do you recall if you
9 were crying at any point during the conversation?

10 A. I did not cry during the conversation with
11 her.

12 Q. So you have that conversation, and then
13 what else happens that evening? Do you recall?

14 A. I provided her with emotional support.

15 Q. How did you do that?

16 A. I consoled her. I hugged her and told her
17 that I would take care of it and that she's a good
18 girl and those lines.

19 Q. So the emotional support you just
20 described, do you know how long you talked to her
21 about those things, whether it was minutes or
22 hours, anything like that?

23 A. I don't recall that in minutes.

24 Q. What about the rest of the evening; do you
25 know what [REDACTED] did for the rest of the evening?

1 during that virtual environment because I work
2 during the day. So that was the child care that I
3 arranged for her to continue to be in a safe
4 supportive environment for virtual learning.

5 Q. So the virtual learning that she's doing,
6 it's through River Oaks, but she is at Palmetto
7 preschool?

8 A. Correct.

9 Q. The meetings you had with Jen, can you
10 tell me what occurred during that meeting?

11 A. Yes. I told her exactly what [REDACTED]
12 told me.

13 Q. When you say "exactly," does that mean the
14 details with regards to exactly what happened
15 involving the toilet paper and the privates?

16 A. Correct; and the cardboard and the
17 blocking of the door and that [REDACTED] was very
18 upset, et cetera.

19 Q. Where were you and Jen when you all had
20 this conversation?

21 A. We were in I believe it to be Jen's office
22 at the Carolina Forest location.

23 Q. Do you remember what time of day it was?

24 A. No. Daytime.

25 Q. Was it an appointment or a meeting that

1 just described. I'm just wondering if you recall
2 discussing anything else beyond those.

3 A. I don't recall discussing anything else at
4 that particular meeting.

5 Q. Then there was a second incident; is that
6 correct?

7 A. Correct.

8 Q. When did that take place?

9 A. I feel like it was about two or three
10 weeks later.

11 Q. Do you know if that still would have been
12 during the summer or would that have been during
13 this River Oaks/virtual learning program in the
14 fall?

15 A. I feel like it was in the late -- the
16 school year time frame, in that, quote, fall I
17 guess you would say.

18 Q. So how did you learn about the second
19 incident?

20 A. [REDACTED] confided in me.

21 Q. Where were you all when you had the
22 conversation?

23 A. I don't recall the exact location, but we
24 were home.

25 Q. What did she say?

1 had been scheduled or did you just stop by her
2 office and say, hey, I want to talk to you? How
3 did it come about?

4 A. You had to stop at the front desk and ask
5 to speak to Jen. It was like a reception area.

6 Q. How long did that conversation last?

7 A. I don't recall. To the best of my ability
8 I feel like I was there for perhaps 30 minutes.

9 Q. Do you remember anything that Jen said
10 during the conversation?

11 A. She provided me with reassurances that
12 [REDACTED] would be put into the other virtual learning
13 classroom and they would be separated, and, yes, of
14 course, they wouldn't be bathroom buddies. I guess
15 that was their policy that the kids always had to
16 go to the bathroom two at a time. She was going to
17 look into it. She was going to investigate. She
18 seemed very committed to taking action.

19 Q. Any other details of that conversation
20 that you can recall?

21 A. I think you would need to be a little bit
22 more descriptive on that question.

23 Q. You've indicated that you relayed what
24 [REDACTED] had told you to Jen. You've indicated
25 that Jen provided you the reassurances that you

1 A. She said that [REDACTED] was her bathroom buddy
2 again. She walked with her to the bathroom and
3 came into the stall again and was trying to insert
4 toilet paper, wadded up -- like rolled or wadded up
5 toilet paper in her vagina and pulling at her
6 underwear, pulling her underwear down.

7 Q. Did she indicate what bathroom it occurred
8 in?

9 A. She did not.

10 Q. Did she indicate if anybody else was in
11 the bathroom?

12 A. No.

13 Q. Did she make any indication about what had
14 led to the incident occurring?

15 A. No.

16 Q. Did she indicate that [REDACTED] had just
17 attempted to do this or that [REDACTED] had actually like
18 inserted something into her privates?

19 A. She said she was trying to put the wadded
20 toilet paper -- she was trying to put it into her
21 vagina.

22 Q. But did not actually put it in there? I
23 feel like the sentence you were saying, you didn't
24 complete the sentence.

25 MS. FLUMIAN: Object to the form.

1 A. Can you ask that question again?

2 Q. Sure. Obviously I'm sorry I have to ask
3 you these details, but I'm just trying to gather
4 exactly what [REDACTED] relayed to you.

5 Did she indicate that anything had
6 actually inserted her privates or that [REDACTED] just
7 was attempting to insert something into her
8 privates?

9 A. She said she was trying to put the wadded
10 toilet paper into her privates. She's 6 years old
11 in this time frame, so...

12 Q. Did she share any other details about the
13 incident that you can recall?

14 A. She was very upset.

15 Q. We can certainly take a break if you would
16 like to take a break.

17 A. She was expressing she was afraid of her.

18 Q. Would like to take a break right now?

19 (Brief recess)

20 Q. Are you ready to go back on the record?

21 A. Sure.

22 Q. So did you ask her any questions I guess
23 during the conversation that you all were having
24 about the second incident?

25 A. Yes.

1 A. I don't recall exactly when I spoke to him
2 about it.

3 Q. Do you think it was that day or maybe a
4 different day?

5 A. I believe it was that day.

6 Q. When your husband and you spoke about it,
7 what was the tone of that conversation and what did
8 you all discuss?

9 A. I was very upset. It was an emotional
10 conversation.

11 Q. Did you all discuss how to remedy or how
12 to address the situation?

13 A. I recall that we decided we would
14 definitely be speaking to Miss Jen again.

15 Q. Did you have another conversation with
16 Jen?

17 A. Yes.

18 Q. When was that?

19 A. I don't recall the exact date.

20 Q. Do you know if it was the day after or was
21 it sometime later?

22 A. It was within a couple of -- one to two
23 days perhaps.

24 Q. Where did that second conversation take
25 place?

1 Q. Do you remember the questions you asked
2 her?

3 A. I don't recall the words I used verbatim.

4 Q. Or the substance of the questions?

5 A. I cultivated a conversation to ask her
6 what had happened.

7 Q. And what you just described are the
8 details that she provided you with?

9 A. Correct.

10 Q. Did she indicate if she had ever told any
11 teacher or anybody else at the school about it?

12 A. She did not.

13 Q. How long did that conversation about the
14 second incident last between you and [REDACTED]

15 A. I don't recall how long it took.

16 Q. So how did that conversation end?

17 A. I provided her with emotional support.

18 Q. Do you recall anything else about, for
19 instance, like the rest of the day with this second
20 conversation you had?

21 A. No.

22 Q. Did you tell your husband about that
23 conversation?

24 A. Yes, I did.

25 Q. When did you tell him about that?

1 A. In her office at the Carolina Forest
2 location.

3 Q. Had you ever spoken with Jen on the phone
4 either via phone or text communication?

5 A. She called me after the first meeting.

6 Q. And you all spoke on the phone or did you
7 miss the call? Did you actually have a phone call?

8 A. Yes. I recall her telling me that she had
9 spoken with the other girl's parents and again
10 offered me all sorts of reassurances that she was,
11 you know, on top of it, separating them, and she
12 just wanted to let me know that she had
13 investigated it and et cetera, et cetera.

14 Q. During the second meeting can you describe
15 what occurred?

16 A. I recall being very upset during the
17 second meeting. I remember feeling kind of
18 childish because I was crying in front of a grown
19 woman, which is not my normal behavior, but I was
20 very disappointed that the school had not protected
21 my daughter after I had already given them
22 information about this. I felt the school had
23 really failed her, and I remember crying just like
24 this in her office because they let me down and
25 they let my daughter down. They let her get hurt

1 again.

2 Q. We can take another break if you need to.

3 MS. FLUMIAN: We can keep taking breaks as
4 much as you want to break. Breaks are free.

5 A. I'm sorry. I wasn't trying to raise my
6 voice. I'm just very emotional about this. I'm so
7 sorry. My apologies.

8 Q. That's okay.

9 How long did that meeting with Jen last?

10 A. I don't recall how many minutes.

11 Q. Do you recall what she said during the
12 meeting?

13 A. I don't recall an exact quote, but I
14 remember feeling kind of enraged, like it was such
15 a lame excuse because she told me that they didn't
16 have enough staff to actually keep them separated
17 into separate classrooms after she had told me that
18 that's what was going to happen.

19 Q. So had she previously told you that they
20 would be switched in terms of their classroom?

21 A. She told me that they would be in separate
22 classrooms at the first meeting, that she would
23 keep them separated.

24 Q. Do you recall her saying anything else
25 during the second meeting?

1 A. I'm sure that we said other things, but
2 that's the gist of it. She said we don't have
3 enough staff to keep them separated in separate
4 classrooms.

5 Q. So that meeting occurs, and then are there
6 any other developments with regards to these
7 incidents after that?

8 A. At that point my husband and I felt that
9 the school was not capable of protecting our
10 daughter, and we decided to seek a different
11 location for her to do her virtual learning.

12 Q. How quickly or how soon after the second
13 incident did you all make that decision?

14 A. We made the decision immediately.

15 Q. And then how long did it take to pull
16 [REDACTED] out of school?

17 A. With the logistics and everything that was
18 happening with COVID and the limited number of
19 locations that were offering these virtual learning
20 days, I recall that it took a little bit of time
21 for us to find a location that had seats, and then
22 I had to give some sort of notice to Palmetto.
23 They needed some advance notice; otherwise I had to
24 pay them still. So I don't know. Two or three
25 weeks to the best of my recollection.

1 Q. Where did you ultimately find to put her?

2 A. At that time we decided to put her into --
3 Thomas Gymnastics was using their gym area -- let
4 me rephrase that. Thomas Gymnastics was doing
5 virtual learning, and Thomas Gymnastics prior to
6 that had already had an after-school program, so
7 they had like a big classroom-type area with desks,
8 et cetera. So we placed her in Thomas Gymnastics
9 for those three virtual days per week.

10 Q. After your meeting with Jen did you ever
11 have any other communication with Palmetto
12 preschool about the incidents?

13 A. Not about the incidents, no.

14 Q. Until you found somewhere for [REDACTED] to
15 go did she continue to go to Palmetto preschool?

16 A. Yes. There were very little options.

17 Q. Was she still in the same class as [REDACTED] at
18 that point?

19 A. In my conversations with [REDACTED] she had
20 said that she would still see her, but at that
21 point [REDACTED] was keeping away from her on her own
22 kind of, and I would speak to her like, you know,
23 if you see her, don't sit next to her, et cetera.

24 Q. Did you ever have any conversations with
25 [REDACTED] parents about this?

1 A. No. I've already stated I've never met
2 her parents. I don't know who they are.

3 Q. Tell me about the process of pulling
4 [REDACTED] out of school, how that came about, how
5 you gave them the notice.

6 A. I gave them a written letter.

7 Q. Do you recall who you reached out to with
8 regards to --

9 A. Jen Cusack.

10 Q. When you reached out to Jen, was that in
11 person or was that via email, text? How did you
12 reach out?

13 A. I believe it was by email.

14 Q. Did you give a reason why [REDACTED] was
15 being pulled out of school?

16 A. Yes. I didn't think that they were
17 providing them with good oversight for their
18 virtual learning. I left it brief. I was done
19 having a conversation with her about this incident.

20 MR. KNEECE: This will be Exhibit 1.

21 MS. FLUMIAN: Is this the document that
22 you produced earlier today?

23 MR. KNEECE: Yes.

24 MS. FLUMIAN: My client and I are going to
25 go off the record.

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1 A. No.
2 Q. Have you read her counseling records?
3 A. I just got them late yesterday afternoon, so
4 I have skimmed them. I have not read them in their
5 entirety because I just received them yesterday
6 afternoon.
7 Q. Okay. And so, obviously, you haven't
8 discussed their contents with Jennifer Cusack?
9 A. I do not believe so.
10 Q. My next question is going to be, when I take
11 her deposition, is it your understanding that she is
12 going to continue to claim that there was one
13 conversation with my clients about what happened?
14 A. Yes.
15 Q. Okay. Going back to the designations for
16 today's deposition, I asked -- Number 1 is the hiring,
17 training, orientation, and supervision of all
18 employees. We identified earlier today in Clara [sic]
19 Faircloth's deposition that there were very odd entries
20 on the October 2nd, or at least more fair to say
21 atypical entries in Kangaroo time; is that -- is that
22 fair?
23 A. Yes.
24 Q. Was anyone supervising employees at the
25 Carolina Forest location with enough granularity that

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1 they would have picked up on that atypical
2 documentation?
3 A. Because the documentation that you were
4 looking at is historical, no one would have been
5 looking at that routinely. But the actual dashboard
6 that would have given the information on any given day
7 was looked at routinely by all supervisors.
8 Q. So she made that type of documentation
9 throughout the day. No one caught it?
10 A. No.
11 Q. What type of training is provided to Carolina
12 Forest staff in 2020 regarding child-on-child sexual
13 abuse?
14 A. Just whatever is in the mandated reporter
15 statute for South Carolina.
16 Q. And will you recognize that, while that
17 statute is helpful and it is -- and I have it on us, if
18 we need to read it -- but it specifically discusses,
19 you know, if you -- if you have reason to believe, so
20 that doesn't specify the degree of -- of evidence
21 provided. It just says, reason to believe?
22 A. Correct.
23 Q. But the statute itself doesn't say anything
24 about child-on-child, does it?
25 A. Not that I can think of, no.

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1 Q. Do you have training related to
2 child-on-child sexual abuse?
3 A. I do.
4 Q. In addition -- so do I understand from your
5 prior answer that there's no specific education
6 provided to staff in 2020 regarding child-on-child
7 sexual abuse?
8 A. The State of South Carolina put out a series
9 of videos that teachers now have to take when they
10 start employment. I cannot tell you when those videos
11 were released as far as whether teachers took that in
12 2020 or not. Prior to those videos, there was no
13 specific training provided by Palmetto on
14 child-on-child. We just trained on the mandated
15 reporter expectation if they suspected abuse or
16 neglect.
17 Q. Who was Jennifer Cusack's direct supervisor?
18 A. Me.
19 Q. When was she expected to come to you with a
20 parent's concerns?
21 A. Any time she had questions, any time she
22 wanted guidance, any time that she wanted to discuss
23 it, I was readily available for her.
24 Q. Is it fair for me to understand, then, that
25 there was no, Hey, I think that these parents are

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1 particularly aggrieved and might have -- might be very
2 vocal about their displeasure? Let's discuss it. That
3 was not a situation in which you would expect her to
4 necessarily come to you?
5 A. She did come to me.
6 Q. Are you -- does that answer mean in reference
7 to my clients?
8 A. Yes.
9 Q. In real-time, when they reported the first?
10 A. When they reported the only one that was
11 reported to us, yes.
12 Q. And I understand that's going to be your
13 position. But please understand that my clients have
14 thoroughly testified regarding this, as well. But she
15 came to you in real-time?
16 A. Yes.
17 Q. Okay. And what do you recall about that
18 conversation, if anything?
19 A. It was the last week or so of summer camp.
20 The mom came to Jen and told her that [REDACTED] had come
21 home last night and said that [REDACTED] had crammed -- I
22 don't remember if it was toilet paper or paper towel
23 because it was so long ago -- but a paper product from
24 the bathroom -- I believe she said paper towels at that
25 time -- down -- that -- that [REDACTED] had put a paper

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1 product down [REDACTED] pants. And the mom wanted to
2 make sure that it, like, it was investigated, if it was
3 a thing, if it was a big deal, and to have them not go
4 to the bathroom together again after that.
5 Q. And what type of investigation was
6 undertaken?
7 A. Jen had the conversation with Mom, told her
8 that she was going to investigate it and get back with
9 her. And then she met with [REDACTED]. She met with
10 [REDACTED]. She met with several other little girls who had
11 also had been in the bathroom at the time, though I
12 cannot tell you this far after the fact who those
13 little girls were, but other little girls that were in
14 -- that were their same age in summer camp. And she
15 talked to Amy Annable. And I believe it was Jocelyn
16 was the other summer camp counselor at that time. She
17 talked to all of those people over the course of that
18 day and the next day, all while communicating with me,
19 as well.
20 Q. Did my clients know that she interviewing
21 their child about this?
22 A. Yes.
23 Q. Do you have documentation to support that?
24 A. The mom asked her to investigate it. And she
25 told her she would. And when she returned her phone

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1 call the next day -- I believe it was a phone call, it
2 might have been when the mom was picking up, but I
3 believe it was a phone call -- yes, she informed the
4 mom that she had completed this entire -- that she had
5 talked to all these people and this is what she had
6 found.
7 Q. So my question was, did she document that?
8 And you told me about things that were spoken. So my
9 question is, is there any documentation to support that
10 Jen Cusack told my clients that she was interviewing
11 their child about this accusation?
12 A. There is no written documentation, no.
13 Q. And so your testimony today is based on your
14 recall of this situation, as well as your ongoing
15 conversations with Jennifer Cusack; is that correct?
16 A. Correct.
17 Q. Does that involve conversations -- meaning
18 your answer -- does it involve conversations with
19 anyone else?
20 A. No.
21 Q. And none of that was documented in anyone's
22 files?
23 A. It was not documented in files. It was
24 documented. And Jen used to keep a -- I don't know
25 what you would call it -- but sort of a daily -- like,

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1 any major conversation she had dealt with or anything
2 she had to do on her computer.
3 Q. What do you mean?
4 A. She used to type up notes about, I met with
5 this parent today about the fact that their child bit.
6 You know, the parent's aware. Or, I met with this
7 parent today. They complained that their child got bit
8 for the second time. I reassured them that this is
9 normal in the toddler program and provided them with,
10 you know, articles on biting or whatnot. She keeps,
11 sort of, a running log of major conversations that she
12 had with parents or teachers.
13 Q. Have you accessed that log?
14 A. No. Shortly after Jen moved into her new
15 position and the director took over, that computer
16 crashed. We were not able to retrieve anything from
17 that computer. And it was before we even knew that --
18 that this was a lawsuit or that she was going to need
19 any of those things, so none of it was printed.
20 Q. What kind of computer was it?
21 A. I am not sure.
22 Q. PC or Mac?
23 A. It would have -- oh, no, we don't use any
24 Macs. It would have been a PC.
25 Q. And do you still have possession of it?

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1 A. We do not.
2 Q. Did she back it up in any way, shape or
3 form?
4 A. She did not.
5 Q. Do you have any documentation to back up that
6 this computer crashed?
7 A. Not that I am aware of. I'm sure there was
8 probably a purchase of a new computer right around the
9 time that it crashed, but nothing that I can 100
10 percent point you to at this point in time.
11 Q. And did you-all attempt to recover any
12 information from that computer?
13 A. Karla attempted to recover it. But we did
14 not have any professional recovery. At that point in
15 time, we thought there was nothing on it that would
16 need -- that would be important enough to
17 professionally recover.
18 Q. And I apologize because you might have
19 already just answered this. Do you still have
20 possession of it?
21 A. We do not.
22 Q. Where is it, if you know?
23 A. I believe it was just chunked in our
24 dumpster. Because once we couldn't pull anything off
25 of it, there was also nothing to clear.

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1 Q. Did you have -- or did -- was Jen the only
2 person who used that computer?

3 A. Jen was the only person that routinely used
4 that computer. It was hers. But she would let other
5 teachers go on, say, to, like, register for a class or
6 if they needed to pull training records of some sort.
7 But it was her computer in her office until she moved
8 into the new position. At that point, she got a laptop
9 and it became the new director, Jessica Shade's,
10 computer in her office.

11 Q. Would she have had copies of -- of student
12 information on that computer?

13 A. She would not have. It was just her typed
14 notes.

15 Q. So she would never have downloaded any
16 information directly to that locally?

17 A. I can't tell you what she would have
18 downloaded. She wouldn't -- to the best of my
19 knowledge, she would not have scanned anything to it,
20 which would be -- so there would be nothing that was,
21 like, student data. I don't know what she downloaded
22 offline, like, if she clicked on a link and downloaded
23 something. But there should have been no student data
24 on it.

25 Q. Okay. Back to Jen would keep, sort of, a

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1 running log of -- of information. Is it possible that
2 she maintained notes related to this interaction with
3 my clients?

4 A. Not just possible, she's affirmed to me that
5 she did keep notes.

6 Q. And she did not forward you her notes?

7 A. No. No, she did not.

8 Q. Have you checked your email to verify?

9 A. I have.

10 Q. Did she ever send you any attachments?

11 A. No, not related to this. Did she send me
12 attachments? Yes. Like, if she scanned something like
13 her every-Friday report, yes.

14 Q. What's an every Friday report?

15 A. Like, every director in a building completes
16 a Friday report on their enrollment and things like
17 that, that they would send to me.

18 Q. What else is included in it?

19 A. Their enrollment, their money collected for
20 the week, if they had to waive any tuitions for
21 anything, if anybody needed paid time off, basically,
22 things that we would need to then run other reports,
23 so -- like payroll.

24 Q. Not major incidents with particular
25 parents?

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1 A. Not typically, no. There is a section that
2 they could say anything they want help with, but not
3 typically.

4 Q. I understand that you-all would write boo-boo
5 reports for when a child was injured?

6 A. Yes.

7 Q. Is that correct?

8 A. Yes.

9 Q. Are there any -- and I also understand there
10 would be incident reports if -- if teachers were
11 injured at -- on the job?

12 A. Yes.

13 Q. Are there any other times when incident
14 reports would have been created at Carolina Forest in
15 2022? 2020. Every time. I never mean to do that.

16 A. I don't believe so.

17 Q. So other than her notes, there's no other
18 possible way that anything related to a parent
19 interaction that did not result in a physical injury
20 would have been documented?

21 A. No.

22 Q. Is that your policy today?

23 A. Yes.

24 Q. Why is that the policy?

25 A. If there's an injury, we need to know about

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1 it. If it's an incident that would require something
2 else, there's some other mechanism. For example, if
3 there were student-on-student sexual contact, that
4 would then be reported. So that would be -- there
5 would be the report where it was reported.

6 Q. And, again, it's -- it's you-all's position
7 that this situation, based on Jennifer's conversation
8 with my client, with the perpetrator, with the teacher,
9 with Ms. Jocelyn, and then potentially other children
10 who were also in summer camp, that, based on those
11 interviews, there was no sexual nature to what
12 occurred?

13 A. That is correct.

14 Q. And does that also mean that she never spoke
15 to [REDACTED] parents about what happened?

16 A. She did speak to [REDACTED] parents, not as a
17 result of the investigation, just filling them in.
18 Hey, this occurred. Can you please talk to [REDACTED] about
19 making sure that she understands that she cannot, you
20 know, stuff paper product down someone else's pants?

21 Q. Okay. And, again, it's -- it's your
22 understanding that Jen did communicate that she spoke
23 -- that she interviewed my client, that she
24 communicated that to her parents?

25 A. Yes.

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1 Q. And that's based on your recall?

2 A. Yes.

3 Q. Okay. Did you ever speak to my client about

4 this?

5 A. I did not. I was willing to speak to them if

6 they were not satisfied with Jen's investigation and

7 what her -- like, what she learned from the

8 investigation. But after Jen spoke with the mom, the

9 mom seemed to understand it. She seemed fine. She

10 seemed to think it wasn't any big deal. And there was

11 no reason for me to speak to her after that.

12 Q. Did you speak to my minor client?

13 A. I did not.

14 Q. And what is Jennifer's educational

15 background?

16 A. She has a bachelor's in early childhood, I

17 know for sure. I don't remember past that. I'm pretty

18 sure she has an advanced degree.

19 Q. Fair to say, though, that you actually have

20 the most advanced degree in the circumstance,

21 correct?

22 A. Yes.

23 Q. You would be an excellent person to have

24 spoken to her --

25 A. Yes.

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1 Q. -- about what happened? And -- and you might

2 have been the best to understand how to do it in a way

3 that would have been beneficial to the child?

4 MR. KNEECE: Objection to form.

5 BY MS. FLUMIAN:

6 A. Possibly.

7 Q. And -- but that did not happen?

8 A. It did not. That was not my role at the

9 preschool at that time.

10 Q. Did you -- what is your understanding as to

11 the conversation that Jen had with Amy Annable?

12 A. That the way -- I wish -- I wish I had a

13 picture.

14 Q. I have the layout, if that's helpful.

15 A. It's not. When a teacher is supervising a

16 bathroom duty for a group of students that are in a

17 bathroom that has stalls, they put themselves at the

18 door so that they can monitor the children who have

19 already been to the bathroom or who are waiting in the

20 bathroom. I assume everybody's been to public school.

21 It's much like -- like a public school would do where

22 you're monitoring some kids in the hall and some kids

23 are in the bathroom. And Amy was in between monitoring

24 the group that was in the hall while also monitoring

25 the bathroom as the kids came out of stalls. When, you

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1 know, she was looking this way, [REDACTED] came -- I'm

2 sorry -- [REDACTED] came out of the stall. And [REDACTED] put

3 paper towels or toilet paper -- there's been so much

4 mis- -- whatever -- but I believe she said paper towels

5 at the time -- put paper towels down [REDACTED] pants.

6 [REDACTED] said, No. At the same time, Amy said, No,

7 corrected the behavior with [REDACTED]. And that was the end

8 of it. [REDACTED] was not upset. [REDACTED] did not

9 require any other, like, comforting or anything. It

10 was -- while she did not see her immediately do it, she

11 saw her while she still had her hands, like, cramming

12 stuff down her pants. In Amy's estimation, it was a

13 typical childhood goofing off and not any kind of

14 sexual content or inappropriateness, no effort to touch

15 any private parts.

16 Q. I'm now going to mark what will be

17 Plaintiff's 11, I think. I apologize in advance.

18 These documents are not Bates'd. They were produced by

19 your first lawyer. I will tell you, I have altered

20 them in one single way. All of these documents were

21 produced to me. Forgive me; I'm trying to refrain from

22 editorializing. Every other page was blank, so I have

23 altered them in so much as I have removed all the blank

24 pages.

25 A. Okay.

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1 (Plaintiff's Exhibit No. 11 marked for

2 identification.)

3 BY MS. FLUMIAN:

4 Q. So have you seen these documents before?

5 A. I have seen them. I have not reviewed them

6 in any recent time frame, but I have seen them.

7 Q. It's my understanding that Amy Annable was

8 hired in, roughly, like, September. Oh, you have the

9 notes whenever she was originally hired. September of

10 '19? Does that seem about right?

11 A. Yeah. But I might have missed -- I must have

12 transposed my notes on here because this actually says

13 February of '20.

14 Q. And, again, this is a little less helpful

15 than the last time we did it because I can't send you

16 to a specific page. But, like, the first page that's

17 on top --

18 A. Uh-huh.

19 Q. -- it looks like her orientation is taking

20 place on October 8th of '19?

21 A. Right.

22 Q. So fair to say not February of '20?

23 A. Correct.

24 Q. Okay. And, again, I apologize because it's

25 going to be a lot harder to get you into this file

1 kind of slower so to speak. I don't know how to
2 describe that in words. I apologize.

3 Q. When you said "on the spectrum," were you
4 referring to like the autism spectrum or were you
5 referring to something else?

6 A. Yes, like the autism spectrum. It's just
7 kind of a feeling you get, like an energy, like
8 someone is not --

9 Q. Not what?

10 A. At the same standards, like relative
11 standards for that age, like in that sense.

12 Q. Had you ever observed anything about her
13 behavior that led you to that conclusion?

14 A. No. I didn't spend enough time at the
15 drop-off and pickup.

16 Q. So going back to [REDACTED] pulling out of
17 school, she then goes to Thomas Gymnastics and
18 River Oaks.

19 How long did that last where she was doing
20 the combined virtual learning at Thomas Gymnastics
21 with a few days a week at River Oaks?

22 A. I don't recall if it was the full school
23 year that they did that or that they put the
24 plastic barriers towards the end of that year and
25 the kids started going more frequently or if it was

1 Q. So how much longer would she have gone
2 there?

3 A. She finished that year, the 2020 to 2021
4 year.

5 Q. So she continued to go to Palmetto
6 preschool until the early summer of 2021?

7 A. June-ish, yes.

8 Q. Why did you all leave [REDACTED] in Palmetto
9 preschool after you pulled [REDACTED] out?

10 A. The actual preschool classrooms, not these
11 virtual learning environments that they were
12 running were very different. They had locked
13 doors. They had the same teacher. It was a very
14 different environment. [REDACTED] was doing very well
15 with Miss Beth, her teacher.

16 Q. Did you ever observe any emotional or
17 behavioral changes in [REDACTED]

18 A. Yes.

19 Q. When did you first start to notice that?

20 A. When she told me about the incident
21 initially, she was very emotional, so I guess it
22 would start right then and there, and then she
23 continued to have emotional changes and behavioral
24 changes since the very first incident.

25 Q. So what emotional and behavioral changes

1 the next school year because it was a very strange
2 time with COVID.

3 Q. Going back, I guess you have had this
4 second conversation with Jen, and you all make the
5 decision to pull [REDACTED] out of school.

6 Did you ever report any of this to any law
7 enforcement agency?

8 A. No.

9 Q. Did you ever report it to any sort of like
10 government agency or regulatory authority or
11 anything of that nature?

12 A. No.

13 Q. Why is that?

14 A. I would assume the school should do those
15 things.

16 Q. So with regards to your complaints about
17 the school, did you ever report those complaints to
18 any sort of agency, regulatory authority, anything
19 like that?

20 A. No.

21 Q. Did [REDACTED] continue to go to Palmetto
22 preschool?

23 A. Yes.

24 Q. For how long?

25 A. She finished her pre-K program there.

1 did you notice?

2 A. The crying, the tearfulness without a
3 precipitating factor, becoming withdrawn, her
4 saying that she felt shy when she would like maybe
5 go to a playground or something along those lines
6 like around people she didn't really know where she
7 had never been that way. You know, like if you go
8 to like a public space, while I was there with her,
9 you know, feeling clingy towards me, saying really
10 derogatory things about herself, that she hated
11 herself. She felt like a bad person. She started
12 touching herself on her vagina, pinching it really
13 hard and leaving little bruises around her private
14 area and picking at herself on her legs and thighs
15 until she made really big holes that would bleed.
16 She still does that.

17 At first you start to see things, and you
18 don't want to believe anything is really wrong with
19 your kid and that nothing bad really happened, but
20 it started to build up and snowballing. It became
21 clear to me as a parent that it wasn't just
22 something that I could fix for her as her mom.

23 Q. What you just described, when did you
24 notice that start to develop?

25 A. Again, really from the incident. It was,

1 you know, little things here and there you start to
2 notice, and then they start to take on more weight
3 when you see a pattern, when you see it's not just,
4 oh, that happened once. This is happening. She's
5 doing this all the time.

6 So it was, you know, throughout that one,
7 two, three, four, five, six, seven, eight months.
8 You know, in that first six months, that's when it
9 started to become obvious that this wasn't
10 something that was just like, oh, one and done.
11 She's really affected by this.

12 She even had an episode where she peed in
13 her pants at school at River Oaks, and they had to
14 call me to come get her, and she wasn't the type of
15 kid that peed her pants. She was pretty much potty
16 trained by 2 years old. She never peed in the bed.
17 She wasn't like that. It was unusual.

18 Q. Do you remember when that was?

19 A. It was later that year.

20 Q. 2020 or 2021?

21 A. That school year, so, you know, in that
22 2020-'21.

23 Q. Do you remember if it was like towards the
24 end of the school year?

25 A. I don't recall. I just remember feeling

1 sound right?

2 A. Yes.

3 Q. So that would be more than a year after
4 the incidents; is that correct?

5 A. Correct.

6 Q. So why was it that you all didn't obtain
7 any mental health counseling until that point in
8 time?

9 A. When it became apparent that these
10 symptoms were not acute, that they were becoming a
11 distressing, chronic symptom from this assault on
12 her, I began to look for therapists. Keep in mind
13 that this was coming off of COVID, and there was a
14 mental health crisis in the entire world. Finding
15 a therapist, one, that was able to take new
16 patients was very difficult; two, that treated
17 children under the age of 10 is very difficult; and
18 then, three, after I finally narrowed down a very
19 small, select group of therapists that were able to
20 take new patients and would see someone her age I
21 wanted to kind of interview them first on the phone
22 and make sure that they were going to be a good fit
23 because I didn't want my daughter to feel like she
24 was being punished. You know, that relationship
25 for therapy is based on trust and a comfort level.

1 like it was so strange that she would pee her
2 pants.

3 Q. After she had told you about the incidents
4 did you take her to either a pediatrician or any
5 other doctor at that point in time for a checkup?

6 A. No.

7 Q. Why is that?

8 A. Because I had already looked at her, and I
9 didn't feel that she should be subjected to an
10 overtly aggressive exam like that. Based on what
11 she had told me I didn't feel as her mother that I
12 needed to bring her like to an emergency room or to
13 a physician for that type of exam.

14 Q. Did you seek any type of mental health
15 treatment or counseling upon learning about the
16 incidents from [REDACTED]?

17 A. Yes.

18 Q. When was that?

19 A. As I just described, as the symptoms
20 became more obvious to me as a parent that they
21 were not going away and that this trauma was
22 causing lasting effects on her, I began to seek
23 treatment from a mental health specialist.

24 Q. I have the first intake notes at H.O.P.E.
25 Counseling being from October 28, 2021. Does that

1 So I really wanted to do my due diligence before I
2 just brought her to some office and had some person
3 interrogate her on this. I wanted her to have a
4 therapeutic relationship with a therapist. So it
5 took some time.

6 Q. When did you start that process?

7 A. It took about four months to really find
8 someone that was able to treat her and see her.

9 Q. Did you ever correspond via email with any
10 potential therapists or any text message?

11 A. I don't recall, no.

12 Q. If you did, it would have been from
13 [REDACTED]

14 A. Yes.

15 Q. You indicated that you interviewed some
16 therapists over the phone; is that correct?

17 A. Yes. I spoke to a man. I don't remember
18 his name. I mean I spoke with a number of offices
19 that didn't see children that age. I don't
20 remember all of them, you know, so there was no
21 interview with them. It was just a call: I'm
22 trying to get my daughter into therapy.

23 Q. What were the other therapy clinics or
24 mental health counselors that you looked into?

25 A. I don't recall their names.

1 Q. That man that you said, is that the
2 interview that you're referring to?

3 A. I spoke with a few different offices, some
4 male therapists, some female therapists. It was
5 very hard to find therapists during that time.

6 Q. When you speak with the offices, are you
7 speaking with the therapists themselves?

8 A. Honestly, I don't know. Some therapists
9 have secretaries. Some of them are like in an
10 office. Some of them are the therapists, you know.

11 Q. Would that have been on your cell phone
12 that you had these conversations?

13 A. I would assume.

14 Q. Do you still have the same cell phone
15 number?

16 A. Yes.

17 Q. What is that?

18 A. [REDACTED]

19 Q. Who was your carrier at the time?

20 A. T-Mobile.

21 Q. How did you ultimately decide to go to
22 H.O.P.E. Counseling?

23 A. When I spoke with Miss Shavonne, I felt
24 like she was a good fit for my daughter.

25 Q. What was it specifically about your

1 would get or any feedback from the school about how
2 [REDACTED] was doing, would there be any write-ups
3 that would say how the teacher felt that she was
4 doing in the class and how she was progressing
5 throughout the year?

6 A. If I had to recall, they still issued
7 report cards, but it was just like a plus sign.
8 There were no grades. There may have been a blurb
9 at the bottom. I don't recall exactly.

10 Q. Do you recall anything in any of those
11 reports that was concerning or that led you to
12 believe that she was having any trouble in school?

13 A. No.

14 Q. When [REDACTED] goes to H.O.P.E. Counseling,
15 do you remember if you or your husband took her to
16 the first visit?

17 A. To my recollection I took her to the first
18 visit.

19 Q. Going back to the behavioral and emotional
20 issues that you were describing, did [REDACTED] ever
21 say anything that led you to believe that any of
22 those issues were related to the incidents at
23 Pahnnetto preschool?

24 A. Her reaction to finding out that [REDACTED] was
25 in River Oaks with her was dramatic. as

1 conversation with her that made you feel like that?

2 A. Just a gut instinct.

3 Q. How did you find out about H.O.P.E.
4 Counseling?

5 A. I used a combination of the website
6 Psychology Today, which is a common resource for
7 therapists, and then I compared that to who was in
8 network with my insurance company.

9 Q. When [REDACTED] treats at H.O.P.E.
10 Counseling, does she see the same person every
11 time?

12 A. Yes.

13 Q. Did any of [REDACTED] teachers at school
14 ever report any emotional or behavioral issues to
15 you all?

16 A. No.

17 Q. Her grades that school year, were they the
18 similarly good grades that she has gotten
19 throughout her educational career? Were they ever
20 any lower, higher? How would you describe that?

21 A. Are you speaking about 2020-2021?

22 Q. Yes.

23 A. The schools didn't really have a grading
24 system because of COVID that year.

25 Q. With regards to any report cards that you

1 fearful, very upset. In my mind I correlated that
2 behavior to that incident, her reaction.

3 Q. So her reaction, I just want to try to
4 pinpoint when that was. Do you think it was the
5 following year, the second grade year that that
6 occurred?

7 A. To the best of my recollection I believe
8 so.

9 Q. Can you describe what the reaction was?

10 A. Well, obviously she had come home from
11 school. It would be after school. She doesn't
12 have a phone. She couldn't call me from school.
13 She was like, "I saw [REDACTED] in school today. She
14 goes to the same sch [REDACTED] It was like she was, you
15 know, like almost agitated and fearful. I said,
16 "Is she in the same classroom?" She said, "No. I
17 saw her." She passed her by. I don't recall
18 exactly where she said she passed her by. That
19 wasn't important to me. It was just important that
20 she just was fearful, and I wanted to let her know
21 that I was going to speak to the school, and that's
22 what led to me speaking to Ms. Frances.

23 Q. Was she tearful at all during the
24 discussion about [REDACTED] being in school? Did she
25 cry?

1 A. Yes. She had a range of emotions.

2 Q. Was that just a one-time conversation or
3 did she have any further conversations about [REDACTED]
4 being at school with her?

5 A. We have had multiple conversations about
6 [REDACTED] being in the same school as her.

7 Q. Does [REDACTED] continue to attend River Oaks?

8 A. As far as I know, yes.

9 Q. Do you recall when the last time that you
10 would have spoken to [REDACTED] about [REDACTED] would have
11 been?

12 A. We occasionally speak about her. I try to
13 keep it, you know, very light because I never want
14 her to think that she's in trouble for being around
15 [REDACTED] because it's not her fault, but, you know, I
16 occasionally will say do you ever see [REDACTED] in
17 school like that because I just want to always make
18 sure she knows that door is open to have a
19 conversation with me if she feels a certain way.

20 Q. What will she say when you ask her about
21 that?

22 A. She will say, "Yeah. I see her
23 sometimes."

24 Q. Does she ever indicate that she has any
25 interaction with her?

1 Q. During that interview did you speak about
2 what had occurred at Palmetto preschool?

3 A. Correct.

4 Q. Were there any other concerns that you had
5 or any other incidents that you would have raised
6 to Ms. Myers that you thought were contributing to
7 any of the emotional or behavioral issues that
8 [REDACTED] was having?

9 MS. FLUMIAN: If you're going to ask my
10 client specifically about an interview she gave,
11 I'm going to ask you to show her a copy of it.

12 MR. KNEECE: I'm just asking what she
13 recalls.

14 MS. FLUMIAN: From the intake interview
15 for which there is a document.

16 MR. KNEECE: I can ask her about the
17 document if you want me to.

18 MS. FLUMIAN: Well, since you are, yes.

19 MR. KNEECE: I have not referenced the
20 actual document.

21 MS. FLUMIAN: Well, you've continually
22 referenced the intake interview.

23 THE WITNESS: Is there an active question
24 right now?

25 MS. FLUMIAN: There is not.

1 A. No. She has noted that [REDACTED] goes to the
2 special classroom.

3 Q. The special classroom, is that the class
4 for special needs students?

5 A. I would assume. I have general
6 conversations with [REDACTED] -- with both of my kids
7 about everyone learns differently, et cetera.

8 Q. Does she ever indicate that she's upset
9 when she sees her?

10 A. If I were to range that question out over
11 time, she has better coping mechanisms now. If we
12 backtrack year by year, it would ramp up from
13 fearful, upset, to better coping now.

14 Q. So at H.O.P.E. Counseling you took her to
15 the first visit; is that right?

16 A. I believe to my recollection that it was
17 me and only me. I don't recall my husband even
18 being with us.

19 Q. Did you ever speak with Ms. Myers at any
20 point about the incidents at Palmetto preschool
21 prior to [REDACTED] starting her counseling at
22 H.O.P.E. Therapy or H.O.P.E. Counseling?

23 A. To the best of my recollection I gave the
24 intake interview. That was the initial
25 interaction.

1 (Brief recess)

2 (Deposition Exhibit No. 2 marked for
3 identification.)

4 Q. I'm handing you what is Exhibit 2. This
5 is an initial clinical assessment from H.O.P.E.
6 Counseling.

7 The handwriting that's on the page, is
8 this something that you filled out or did Ms. Myers
9 fill it out?

10 A. That's definitely Ms. Myers' handwriting.

11 Q. The first question here is what brought
12 you here today and why are you seeking counseling
13 services, and then there is a portion that
14 Ms. Myers filled out. Do you see that?

15 A. Uh-huh.

16 MS. FLUMIAN: Is that a yes?

17 A. Yes.

18 Q. It says: "[REDACTED] is having a hard time.
19 Had been touched by a child last summer at camp.
20 Now sees the child at school. Had some issues with
21 masturbation in front of others, some issues with
22 anxiety. Extra emotional when tired." Is that
23 what it says?

24 A. Yes, that's what it says.

25 Q. So with regards to the sentence that says

1 "had some issues with masturbation in front of
2 others," what issues were those?

3 A. She would rub herself on her vagina area.
4 Like the three of us, myself, [REDACTED] and [REDACTED]
5 would be watching TV, and she would be like rubbing
6 on herself. I asked [REDACTED] if she ever does that
7 at school, and she said sometimes she would touch
8 her -- sit at her desk and put her hands between
9 her legs over her clothes and push on her vagina.

10 Q. How often was she doing that that you were
11 noticing?

12 A. Can you ask that question with some
13 context?

14 Q. So you reported that she was having issues
15 with masturbation in front of others, and you
16 indicated that you had noticed that.

17 How many times did you notice that? Was
18 it just a once or twice thing or was it something
19 that was happening more frequently than that?

20 A. A couple of times a week.

21 Q. Then the next sentence says: "Some issues
22 with anxiety."

23 What issues with anxiety was [REDACTED]
24 experiencing at that time?

25 A. I would surmise to say that that's a

1 issue with teacher. Is afraid of being shamed by
2 teacher."

3 Was [REDACTED] having any issues with any of
4 her teachers at that point in time?

5 A. When she began second grade, she
6 didn't like her teacher, but she ended up loving
7 her as the year went on, but initially -- and I
8 believe we already decided this was October, so
9 that was in the beginning of the year.

10 Q. And then it says: "No behavior problems."
11 You indicated that Ms. Myers wrote that. Would you
12 agree with that?

13 A. I could only assume that that was in
14 relation to school. She wasn't like behavioral in
15 school, acting out in school. This is related to
16 the teacher. I expressed many behavior problems to
17 her during this. Again, you would have to speak
18 with her I guess about that because it already says
19 some issues with anxiety, and she surmised had some
20 issues with masturbation in front of others.
21 That's clearly a behavioral problem, but then the
22 no behavior problems I believe is related to this
23 teacher-school environment. I don't know. Again,
24 you're asking me to assume what Ms. Myers
25 summarized in here.

1 summary that Ms. Myers wrote. I described
2 [REDACTED] behaviors, and perhaps that's her
3 summary of the behaviors.

4 Q. So these are her words, not yours?

5 A. This is a summary. I told her what
6 happened. I didn't say she was touched by a child
7 last summer at her camp. I told her about the
8 incident. This is a summary of what I was saying
9 to her. She wrote this. You would have to ask
10 her, I guess.

11 Q. And then extra emotional when tired. Do
12 you recall any issues with [REDACTED] being extra
13 emotional when she was tired at that time?

14 A. Correct. Towards the end of the day she
15 gets very emotional. Closer to bedtime she becomes
16 very emotional.

17 Q. Then the following section is history of
18 presenting issue, possible causes, areas of life
19 affected, and then the sentence says: "Having an
20 issue with teacher. Is afraid of being shamed by
21 teacher."

22 Was she having any issues with any of her
23 teachers around that time?

24 (Brief recess)

25 Q. This line here indicates: "Having an

1 Q. Then she says: "Has sensory issues with"
2 -- and truthfully I don't know what word that is,
3 with something "and loud music."

4 Do you know what that would have been?

5 A. I think crowds and loud music.

6 Q. Was she having some issues with crowds and
7 loud music around that time?

8 A. Correct. As I described to you some of
9 her behaviors that manifested with this, when we
10 went to new places like this in public, she would
11 become very fearful, playgrounds, rides, like the
12 little amusement park rides, she would become very
13 fearful. She wouldn't want to let go of my hand to
14 go on a ride.

15 Q. Then it says: "Just started eating with
16 other kids in cafeteria. Had a panic attack
17 previously."

18 Did she have a panic attack at some point?

19 A. Correct. Again, I can only infer from her
20 summary. I was describing the kids going back to
21 the cafeteria for the first time since the COVID
22 classrooms were set up, and she became very
23 panicked when she came home and saw [REDACTED] in the
24 same school. That's my only summary of that. I
25 had described that situation to her.

1 Q. So that's what you think the panic attack
2 refers to, when she saw [REDACTED]?

3 A. Perhaps or perhaps the way that I
4 described how she was becoming in social situations
5 when we went out in the community when there were
6 events.

7 Q. Did she ever have a panic attack at school
8 that you're aware of?

9 A. No. The school nurse never called me or
10 anything like that.

11 Q. I know you indicated her reaction when she
12 told you about having seen [REDACTED], but were there any
13 other instances where she ever made any statements
14 that led you to believe that her behavioral or
15 emotional issues were stemming from the incidents
16 at Palmetto preschool?

17 A. Can you repeat or rephrase that question?

18 Q. Sure. You described earlier when she saw
19 [REDACTED] at school and then you all spoke about that.

20 Did she ever make any other statements
21 with regards to any like behavioral issues or
22 emotional issues where she referenced the incidents
23 at Palmetto preschool or said something that either
24 brought that up or led you to believe that that was
25 what was causing the behavioral or emotional

1 issues?

2 A. [REDACTED] did not make a statement that
3 clearly said I'm doing this behavior because this
4 happened to me, no.

5 Q. So what was it about her behavioral issues
6 or emotional issues that led you to believe that
7 they were related to the incidents at Palmetto
8 preschool?

9 MS. FLUMIAN: Object to the form.

10 Q. You can answer.

11 MS. FLUMIAN: If you understood the
12 question, and I would also add asked and answered.

13 Q. Did you understand the question?

14 A. Repeat the question in a different way,
15 please.

16 Q. Was there anything about her behavioral or
17 emotional issues that led you to believe that they
18 were stemming from the incidents at Palmetto
19 preschool?

20 A. Yes.

21 Q. What was that?

22 A. The way she was hurting herself on her
23 vagina and private areas, her thighs, and her legs.

24 Q. Anything other than that?

25 A. I believe all the behaviors that she

1 exhibited were related to that.

2 Q. I asked your husband about this, but he
3 had indicated that he wasn't really too aware of
4 your side of the family with regards to any sort of
5 mental health issues or substance issues.

6 Do you have any mental health or substance
7 issues on your side of the family?

8 A. Yes.

9 Q. Can you tell me what those are?

10 A. My father was a drug addict and an
11 alcoholic for most of my life growing up. My
12 mother became a drug addict when I was an adult.

13 Q. Has anybody else in your family that
14 you're aware of ever experienced any type of abuse?

15 A. Can you rephrase the question in terms of
16 abuse?

17 Q. Sexual abuse let's say. Has there been
18 any family history of any type of sexual abuse at
19 any point?

20 A. Can you be more exact?

21 Q. Just any family member that you're aware
22 of. Are you aware of any?

23 MS. FLUMIAN: Any what?

24 MR. KNEECE: Any family member that has a
25 history of being sexually abused.

1 A. I was sexually abused when I was a child.

2 Q. I'm sorry. I have to ask you some
3 questions with regard to that.

4 How old were you when that occurred?

5 A. A teenager.

6 Q. Did that result in any type of like
7 criminal charges against anybody?

8 A. No.

9 Q. Who was the perpetrator of that?

10 THE WITNESS: Do I have to answer these
11 questions?

12 MS. FLUMIAN: Can we go off the record?
13 (Discussion off the record)

14 Q. You don't have to name the person by name,
15 but the status or relationship of the person.

16 A. It was a relative.

17 Q. Have you undergone any counseling with
18 regards to that?

19 A. Yes.

20 Q. Are you currently undergoing any
21 counseling with regards to that?

22 A. No.

23 Q. The counseling that you underwent, was
24 that around the time of the incident or was that
25 sometime later?

1 A. I had utilized counseling from a licensed
2 professional therapist many times throughout my
3 lifetime starting from my teen years through
4 adulthood.

5 Q. Your husband had indicated that [REDACTED]
6 makes really good grades in school, all As or
7 something close to that.

8 Is that accurate with regard to [REDACTED]
9 school performance?

10 A. Yes.

11 Q. Are you aware of any current issues that
12 she has in school, whether that be with regards to
13 class work or any type of behavioral issues or
14 other types of issues that she has in school?

15 A. None that has been reported by the school.

16 Q. What about any reported by somebody else,
17 whether it be her or a friend of hers or a teacher
18 or something like that?

19 A. [REDACTED] has reported that she feels
20 stress about being a high performer in regards to
21 her grades.

22 Q. With regards to H.O.P.E. Counseling, have
23 you ever reviewed any of the records from there?

24 A. No.

25 Q. The meetings that [REDACTED] has with the

1 their conversations is if there is a concern for
2 [REDACTED] safety, and she felt that [REDACTED] was
3 putting herself at risk for getting in trouble
4 academically by letting this girl cheat, and she
5 was concerned that [REDACTED] maybe didn't
6 feel strong enough to defend herself from this girl
7 kind of bullying her and that she didn't feel
8 confident to tell the teacher what was going on.
9 So she wanted to bring me in so we could discuss
10 tools for [REDACTED] to feel stronger and so [REDACTED]
11 could know that she had my support and we could
12 speak to the teacher about what was going on.

13 Q. Did you have any followup with the teacher
14 about that?

15 A. I did.

16 Q. What was the result of that?

17 A. The girl was -- they sit in like cluster
18 desks, like four kids in a desk, and she was
19 immediately moved to a different desk. I don't
20 know what other interventions they took with her.
21 I don't know. [REDACTED] was happy with the result,
22 and we moved on from that.

23 Q. The counselor, Ms. Myers, does she provide
24 you with updates on what they're talking about
25 during the counseling sessions or is it totally

1 counselor, are you a part of any of those meetings
2 or are they just between the counselor and
3 [REDACTED]

4 A. It's her therapy, and they're between her
5 and [REDACTED]. I recall being asked to join one
6 meeting with [REDACTED] that I recall just for a few
7 minutes.

8 Q. Do you remember why you were asked to join
9 that one meeting?

10 A. Miss Shavonne was just asking me how I
11 felt [REDACTED] was doing, and she wanted to discuss
12 a particular instance that [REDACTED] had shared with
13 her that maybe sounded like bullying.

14 Q. Like bullying at school?

15 A. That [REDACTED] was being bullied.

16 Q. So what was occurring at school with
17 regards to that?

18 A. There was a girl in her group that was
19 telling [REDACTED] to give her the answers to a quiz
20 or she was going to tell the teacher something bad
21 about her, and [REDACTED] gave her the answers
22 because she was afraid to get in trouble by the
23 teacher. From my understanding and my
24 conversations with Miss Shavonne the only time that
25 she ever divulges anything that's happening or

1 confidential? How does that work?

2 A. Their conversations are completely
3 confidential. She will occasionally share with me
4 things that she recommended for coping mechanisms.
5 At one point she had recommended that I buy a
6 special type of bracelet with these special beads
7 so that [REDACTED] could use that for sensory
8 stimulation instead of grabbing at herself and
9 scratching herself to the point of bleeding, et
10 cetera.

11 Q. When was that? Do you know when that was?

12 A. Two years ago, maybe two and a half years.
13 I don't remember the exact date.

14 Q. In the conversations you've had with
15 Ms. Myers have you all talked about these incidents
16 at Palmetto preschool any time recently?

17 A. She contacted me recently to tell me that
18 she received a request for some sort of statement,
19 and she just was letting me know that she was going
20 to provide a statement to the legal team. We
21 didn't re-discuss the events, the sexual assaults.
22 We didn't re-discuss those, no.

23 Q. Do you think that was in reference to a
24 subpoena for her records?

25 A. No. She was asked for a statement.

1 Q. A statement. Do you know who had asked
2 her for a statement?

3 MS. FLUMIAN: I did.

4 Q. So your attorney had asked her for a
5 statement.

6 Aside from that, do you know when the last
7 time you had talked with Ms. Myers about the
8 Palmetto preschool incidents would have been?

9 A. No, I don't recall the date.

10 Q. Has it been a while? Do you think in the
11 year 2024 you all touched on that topic or is it
12 sometime further back than that?

13 A. We talk about [REDACTED] in the context of
14 what I can do as her parent to support her through
15 this trauma. So when she feels that I need tools
16 or could use tools that would be helpful to support
17 [REDACTED] she lets me know what those tools are.

18 Q. Just going back to the question, have you
19 spoken with her any time recently about the
20 incidents at Palmetto preschool other than the time
21 where she said she had just gotten a request to
22 make a statement?

23 A. No. We don't re-discuss the sexual
24 assaults on any regular basis.

25 Q. Do you think that [REDACTED] counseling is

1 while I just figure out if there is anything else I
2 want to ask about.

3 (Brief recess)

4 Q. I think you indicated a bit ago that you
5 think that the counseling is helping.

6 How would you say that [REDACTED] is doing
7 now if you just had to describe her from an
8 emotional and behavioral standpoint?

9 A. Her confidence is increasing. Her ability
10 to trust her teachers is increasing. It was very
11 difficult for her to establish friendships
12 throughout second and third grades. She was able
13 to start developing some better friendships in
14 fourth grade that she still has now into fifth
15 grade, and that's the first time that I've seen her
16 carry a friendship over outside of like, you know,
17 the acquaintances, like you're my friend because
18 we're in the same classroom versus prior to this
19 incident in Brooklyn she had friendships that were
20 significant in her life. Now in fifth grade is
21 really the first time that I'm seeing her establish
22 those type of friendships. There are three girls
23 in particular that she actually will have contact
24 with outside of school and outside of her
25 classroom.

1 helping?

2 A. I do. I see that she has improved coping
3 skills.

4 Q. Is there is any plan for how long she's
5 going to continue with counseling? Is it just
6 indefinite?

7 A. As long as she needs it.

8 Q. Has it ever changed in terms of the
9 frequency of the counseling?

10 A. Yes.

11 Q. Can you tell me how that's changed?

12 A. Initially it was weekly and now it's
13 biweekly.

14 Q. When did that change from weekly to
15 biweekly?

16 A. I don't recall the exact date.

17 Q. Has [REDACTED] ever treated with anybody
18 else other than H.O.P.E. Counseling for anything to
19 do with the incidents at Palmetto preschool?

20 A. No.

21 Q. Have you ever raised the incidents or any
22 emotional or behavioral issues with any
23 pediatrician?

24 A. Not that I recall.

25 MR. KNEECE: Give me two or three minutes

1 Q. We talked about she does piano,
2 basketball, parkour.

3 Does she have any other things outside of
4 school that she likes to do that we haven't already
5 talked about?

6 A. She rides her bike.

7 Q. With regards to the future, obviously
8 she's doing the counseling, and you indicated that
9 you intend for her to do that for as long as she
10 needs it. Are there any other plans that you have
11 for any other types of treatment that [REDACTED]
12 would get in the future that you would relate to
13 the incidents at Palmetto preschool?

14 A. I would plan to treat whatever symptoms
15 come up.

16 Q. As of now do you know of anything beyond
17 the counseling that she's already getting?

18 A. I cannot see into the future to know what
19 her needs might be in a year or two years or five
20 years. I'm sorry.

21 Q. Have you all gone on any family vacations
22 this year or in the past couple of years?

23 A. Yes, we've vacationed as a family.

24 Q. Where are some of the vacation spots you
25 all have been to?

1 A. We went to Cancun, Mexico. We stayed at a
2 resort there. We did a weekend in Raleigh. We
3 rented an Airbnb in Florida. We've gone back to
4 New York as a family.

5 Q. I meant to ask this earlier. I asked your
6 husband this, and, as I stated during his
7 deposition, I don't mean any offense by this
8 question. I ask every single person in every
9 single deposition.

10 The first is have you ever been arrested
11 for any reason?

12 A. No.

13 Q. The second question is have you ever
14 treated for any sort of substance abuse issue?

15 A. No.

16 MR. KNEECE: I think that is it in terms
17 of questions that I have. Your attorney may have
18 some questions for you, and if she does, I may have
19 some followup. I appreciate your time.

20 EXAMINATION

21 BY MS. FLUMIAN:

22 Q. [REDACTED] as we have discussed off the
23 record, your husband has unexpectedly injured
24 himself, and you need to take him to an urgent
25 care/emergency room; is that correct?

1 Q. You can answer that.

2 MS. FLUMIAN: If you understood it.

3 A. Can you rephrase the question?

4 Q. Sure. In this lawsuit do you intend to
5 ask a jury to award punitive damages against
6 Palmetto preschool?

7 A. My intention is to investigate Palmetto
8 preschool's practices when someone brings an
9 incident like this to their attention, and as a
10 mother I feel like I would be letting every other
11 parent down that brings their child to Palmetto
12 preschool if I didn't look into how they handled
13 this situation, and I would feel very guilty if
14 something like this happened to another child under
15 their care. That's my intention.

16 MR. KNEECE: I don't have any further
17 questions. Thank you.

18 (The deposition concluded at 3:40 p.m.)
19
20
21
22
23
24
25

1 A. Yes.

2 Q. I am therefore going to not ask you the
3 questions that I had intended as I want to let you
4 get out of here.

5 I just want to ask you essentially this:
6 Why did you bring this lawsuit?

7 A. I had a lot of questions about what
8 happened to my daughter, and I wanted someone who
9 is trained to answer those questions to help me.

10 MS. FLUMIAN: Thank you. That's all the
11 questions I have.

12 MR. KNEECE: I guess I do have one
13 followup to that question.

14 EXAMINATION

15 BY MR. KNEECE:

16 Q. Are you seeking to punish anybody in this
17 lawsuit?

18 MS. FLUMIAN: Object to the form.

19 Q. You can answer.

20 MS. FLUMIAN: If you understood his
21 question.

22 A. Can you rephrase the question?

23 Q. Sure. Are you seeking to punish Palmetto
24 preschool?

25 MS. FLUMIAN: Object to the form.

1 CERTIFICATE OF REPORTER
2 STATE OF SOUTH CAROLINA
3 COUNTY OF CHARLESTON

4 I, Carol T. Lucie, Registered Professional
5 Reporter and Notary Public for the State of South
6 Carolina at Large, do hereby certify that the
7 witness in the foregoing deposition was by me duly
8 sworn to testify to the truth, the whole truth, and
9 nothing but the truth in the within-entitled cause;
10 that said deposition was taken at the time and
11 location therein stated; that the testimony of the
12 witness and all objections made at the time of the
13 examination were recorded stenographically by me
14 and were thereafter transcribed by computer-aided
15 transcription; that the foregoing is a full,
16 complete, and true record of the testimony of the
17 witness and of all objections made at the time of
18 the examination; and that the witness was given an
19 opportunity to read and correct said deposition and
20 to subscribe the same.

21 Should the signature of the witness not be
22 affixed to the deposition, the witness shall not
23 have availed himself/herself of the opportunity to
24 sign or the signature has been waived.

25 I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.

Witness my hand, I have hereunto affixed
my official seal on November 26, 2024, at
Charleston, Charleston County, South Carolina.

Carol T. Lucie
NCRA MERIT REPORTER
REGISTERED PROFESSIONAL REPORTER

My Commission expires: November 27, 2027

Miscellaneous Note

H.O.P.E. Counseling Services, LLC

Clinician: Shavonne Myers, LPC

Patient: [REDACTED]

Insurance Number: [REDACTED]

Date and Time: October 29, 2021

Account Number: [REDACTED]

LPC received a call from Mrs. [REDACTED] mother, who had concerns about the information shared in the intake assessment yesterday. She stated that she was unsure if the alleged abuse that was disclosed had actually been reported by the school and investigated as she had previously thought. LPC stated that it was best to make new report just in case. LPC then called the Department of Social Services, Child Abuse and Neglect division to make a report of alleged abuse. LPC spoke with Stuart Fox who took the report. LPC reported to Mr. Fox that while attending Palmetto Preschool (summer/afterschool program) in August 2020, [REDACTED] was inappropriately touched by a 6 year old student named [REDACTED]. LPC reported that [REDACTED] followed [REDACTED] into the bathroom and locked the bathroom stall. [REDACTED] told [REDACTED] to take her pants down and stuffed toilet tissue into her vagina. One week later, [REDACTED] was touched by [REDACTED] for a second time.

LPC told Mr. Fox that Mrs. [REDACTED] spoke to the school staff who assured her that the children would be separated. They were separated for a little while, but they ended up in the same class. Mrs. [REDACTED] then took [REDACTED] out of the school. (All information for the report was obtained by Mrs. [REDACTED].

LPC gave Mr. Fox the information that she had about the school staff which included the teacher's name and the administrator's name. The teacher's name was Amy and the administrator was Jenn. Mr. Fox stated that he would relay this information to his supervisor. LPC then called parent to let her know that the report had been made.

Shavonne Myers, LPC

10/29/21

Subject: RE: Doe v. Palmetto Preschool (20223CP2602424) - Depo Dates for Plaintiffs' Depositions -Follow Up Status
Date: Tuesday, October 8, 2024 at 10:09:48 AM Eastern Daylight Time
From: Kneece III, Robert E
To: Julia Flumian, Kardish, Sandra M.
CC: Beard, Gena G, Dan Luginbill, Annie Gray

Correct, I agree that was your suggestion. Sorry for any confusion. I discussed that suggestion with my client and we still believe it is vital that we depose the minor, regardless of whether the therapist is deposed.

-Robert



Robert Kneece III
Shareholder
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843-576-2829 | Fax 843-577-1639
rkneece@turnerpadget.com
[Bio](#) | [vCard](#) | [Location](#)

From: Julia Flumian <jflumian@mcgowanhood.com>
Sent: Tuesday, October 8, 2024 10:07 AM
To: Kneece III, Robert E <RKneece@TurnerPadget.com>; Kardish, Sandra M. <SKardish@TurnerPadget.com>
Cc: Beard, Gena G <GBeard@TurnerPadget.com>; Dan Luginbill <dluginbill@mcgowanhood.com>; Annie Gray <agray@mcgowanhood.com>
Subject: Re: Doe v. Palmetto Preschool (20223CP2602424) - Depo Dates for Plaintiffs' Depositions - Follow Up Status

Also, to clarify, my suggestion was that you take the therapist's deposition first and then decide if you still require the minor plaintiff's deposition thereafter. I did not suggest, as your email states, that you take her deposition in lieu.

Julia M. Flumian
McGowan Hood Felder & Phillips, LLC

843.268.4681 (direct)
843.268.0251 (office)
843.388.3194 (fax)
10 Shem Drive, Suite 300
Mount Pleasant, SC 29464

From: Julia Flumian <jflumian@mcgowanhood.com>

Date: Tuesday, October 8, 2024 at 10:04 AM

To: Kneece III, Robert E <RKneece@TurnerPadget.com>, Kardish, Sandra M. <SKardish@TurnerPadget.com>

Cc: Beard, Gena G <GBeard@TurnerPadget.com>, Dan Luginbill <dluginbill@mcgowanhood.com>, Annie Gray <agray@mcgowanhood.com>

Subject: Re: Doe v. Palmetto Preschool (20223CP2602424) - Depo Dates for Plaintiffs' Depositions -Follow Up Status

Robert,
How unfortunate for everyone involved.

We look forward to the hearing.

Regards,
Julia

Julia M. Flumian
McGowan Hood Felder & Phillips, LLC

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10 Shem Drive, Suite 300
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From: Kneece III, Robert E <RKneece@TurnerPadget.com>

Date: Tuesday, October 8, 2024 at 9:59 AM

To: Julia Flumian <jflumian@mcgowanhood.com>, Kardish, Sandra M. <SKardish@TurnerPadget.com>

Cc: Beard, Gena G <GBeard@TurnerPadget.com>, Dan Luginbill <dluginbill@mcgowanhood.com>, Annie Gray <agray@mcgowanhood.com>

Subject: RE: Doe v. Palmetto Preschool (20223CP2602424) - Depo Dates for Plaintiffs' Depositions -Follow Up Status

Good morning Julia,

It was nice chatting with you about this case last week regarding the issue of the minor Plaintiff's deposition. I've spoken with my client and it is our position that we need to and are entitled to depose the minor Plaintiff. We are also not inclined to depose the therapist in lieu of the minor Plaintiff. I understand that you and your clients will disagree on that position.

With that in mind, I think the best way to handle the issue would be for me to send out a deposition

notice for the minor Plaintiff's deposition, and you can file a Motion to Quash so that we can get the Court to weigh in on the issue.

Thank you,
Robert



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From: Julia Flumian <jflumian@mcgowanhood.com>
Sent: Wednesday, September 25, 2024 11:25 AM
To: Kardish, Sandra M. <SKardish@TurnerPadget.com>
Cc: Kneece III, Robert E <RKneece@TurnerPadget.com>; Beard, Gena G <GBeard@TurnerPadget.com>; Dan Luginbill <dluginbill@mcgowanhood.com>; Annie Gray <agray@mcgowanhood.com>
Subject: Re: Doe v. Palmetto Preschool (20223CP2602424) - Depo Dates for Plaintiffs' Depositions - Follow Up Status

9:30 on Tuesday. He can call my personal cell: [REDACTED]. Thanks

Julia M. Flumian
McGowan Hood Felder & Phillips, LLC

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Mount Pleasant, SC 29464

From: Kardish, Sandra M. <SKardish@TurnerPadget.com>
Date: Wednesday, September 25, 2024 at 11:20 AM
To: Julia Flumian <jflumian@mcgowanhood.com>
Cc: Kneece III, Robert E <RKneece@TurnerPadget.com>, Beard, Gena G <GBeard@TurnerPadget.com>, Dan Luginbill <dluginbill@mcgowanhood.com>, Annie Gray <agray@mcgowanhood.com>
Subject: RE: Doe v. Palmetto Preschool (20223CP2602424) - Depo Dates for Plaintiffs' Depositions -Follow Up Status

Hi, how would Monday or Tuesday at 9:30 work? What's the best phone number for Robert to call you?
Hope you feel better soon. Thanks. Sandy



Sandra M Kardish
Legal Assistant
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From: Julia Flumian <jflumian@mcgowanhood.com>
Sent: Wednesday, September 25, 2024 11:10 AM
To: Kardish, Sandra M. <SKardish@TurnerPadget.com>; Dan Luginbill <dluginbill@mcgowanhood.com>; Annie Gray <agray@mcgowanhood.com>
Cc: Kneece III, Robert E <RKneece@TurnerPadget.com>; Beard, Gena G <GBeard@TurnerPadget.com>
Subject: Re: Doe v. Palmetto Preschool (20223CP2602424) - Depo Dates for Plaintiffs' Depositions - Follow Up Status

Sandra,
I am going to need a phone conference with Robert before he takes this child's deposition. I am home with pneumonia. I am available next week. Let me know when he can be available for a call.

Thanks

Julia M. Flumian
McGowan Hood Felder & Phillips, LLC

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From: Kardish, Sandra M. <SKardish@TurnerPadget.com>
Date: Wednesday, September 25, 2024 at 10:28 AM
To: Julia Flumian <jflumian@mcgowanhood.com>, Dan Luginbill <dluginbill@mcgowanhood.com>, Annie Gray <agray@mcgowanhood.com>
Cc: Kneece III, Robert E <RKneece@TurnerPadget.com>, Beard, Gena G <GBeard@TurnerPadget.com>
Subject: Doe v. Palmetto Preschool (20223CP2602424) - Depo Dates for Plaintiffs' Depositions -Follow Up Status

Good morning,

I am following up on scheduling the depositions of Plaintiffs, [REDACTED] and [REDACTED], and also the depositions of Plaintiffs' daughter, [REDACTED].

Robert is currently open:

Oct. 1, 3, 16, 18, 21, 23-31;
Nov. 1, 4-6, 8, 11, 14, 15, 19-22, 25, 26

We'll most likely need to work around the school hours. Please let me know what date you and your clients are available. Thank you.



Sandra M Kardish
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From: Kardish, Sandra M.
Sent: Wednesday, September 18, 2024 11:50 AM
To: Julia Flumian <jflumian@mcgowanhood.com>; Dan Luginbill <dluginbill@mcgowanhood.com>;
Annie Gray <agray@mcgowanhood.com>
Cc: Beard, Gena G <GBeard@TurnerPadget.com>
Subject: RE: Doe v. Palmetto Preschool (20223CP2602424) - Depo Dates for Plaintiffs' Depositions

Hi,

Following up on scheduling the depositions of Plaintiffs, [REDACTED] and [REDACTED], and also the depositions of Plaintiffs' daughter, [REDACTED]

Robert is currently open:

Oct. 1, 3, 4, 21, 23 & 24

We'll most likely need to work around the school hours. Thank you.



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From: Kardish, Sandra M.
Sent: Tuesday, September 10, 2024 11:02 AM
To: Julia Flumian <jflumian@mcgowanhood.com>; Dan Luginbill <dluginbill@mcgowanhood.com>;
Annie Gray <agray@mcgowanhood.com>
Cc: Beard, Gena G <GBeard@TurnerPadget.com>

Subject: RE: Doe v. Palmetto Preschool (20223CP2602424) - Depo Dates for Plaintiffs' Depositions

Good morning, just following up on scheduling the depositions of Plaintiffs, [REDACTED] and [REDACTED].
Currently, available dates are: 10/1-4; 10/9; 10/21-24. Thank you.



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From: Kardish, Sandra M.

Sent: Wednesday, September 4, 2024 9:52 AM

To: Julia Flumian <jflumian@mcgowanhood.com>; Dan Luginbill <dluginbill@mcgowanhood.com>;
Annie Gray <agray@mcgowanhood.com>

Cc: Beard, Gena G <GBeard@TurnerPadget.com>

Subject: Doe v. Palmetto Preschool (20223CP2602424) - Depo Dates for Plaintiffs' Depositions

Good morning, Robert Kneece would like to take the depositions of Plaintiffs, [REDACTED].
Would you provide me with some available dates. Currently, Robert is open 10/1-4; 10/9; 10/21-24.
Thank you.



[Sandra M Kardish](#)
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STATE OF SOUTH CAROLINA

COUNTY OF HORRY

AFFIDAVIT OF SHAVONNE MYERS, LPC

PERSONALLY APPEARED BEFORE ME, Shavonne Myers, who being duly sworn, deposes, and states as follows:

1. I have personal knowledge of the facts stated in this Affidavit and the information stated herein is true and accurate to the best of my knowledge.

2. My name is Shavonne Myers, and I am a licensed professional counselor who has worked with children and families for years in the community mental setting as well as in private practice. I received my undergraduate degree in psychology from Coastal Carolina University in 2004 and earned my Master of Arts degree in counseling from Webster University in 2007. In 2015, I became licensed and began working in private practice at Hope Counseling Services, LLC. I currently work with children, adolescents, and adults who suffer from various issues such as trauma, ADHD, anxiety, depression, adjustment disorders, etc.

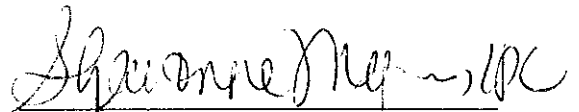
3. I began working with Jane Doe on October 28, 2021. Client's mother reported during the assessment that client had been inappropriately touched by another child at a summer camp program. Parent shared that this incident had been reported to the school and authorities at the time of occurrence. Parent reported concerns that client had issues with anxiety symptoms, poor impulse control, and other behavior issues. The focus of treatment has been to help the client learn to express her feelings appropriately, learn coping skills, behavior management and improving family relationships. Therapist and client have continuously worked on coping skills to decrease client's stress and anxiety symptoms.

4. Based on my work with client, she has made progress in treatment and is better able to deal with daily stressors by applying coping skills learned in therapy. She is

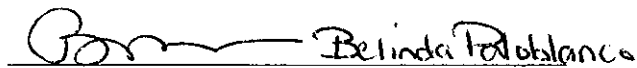
a good student, who earns good grades and is involved in extracurricular activities. It is my professional opinion that Jane Doe would suffer a substantial likelihood of severe emotional trauma if she is deposed. Client often internalizes situations and may feel that she has done something wrong if forced to relive this experience. This may cause her to worry excessively and have negative thoughts, which can lead to shutting down and skin picking as a way of self-soothing. 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.

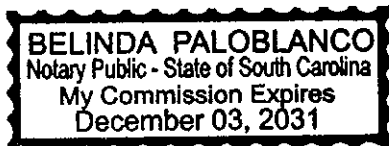
5. I certify and acknowledge that I am signing this Affidavit under oath and under penalty of perjury.

FURTHER AFFIANT SAYETH NOT.


Shavonne Myers, Affiant

SWORN to before me this
6th day of November 2024.


Notary Public for South Carolina
My Commission Expires: 12/03/2031



1 A. Yes.
 2 Q. Full time?
 3 A. Yes.
 4 Q. Do you recall her teacher's name?
 5 A. No.
 6 Q. So the incident that forms the basis of
 7 this lawsuit, do you know when that occurred?
 8 MS. FLUMIAN: Object to the form.
 9 Q. Do you understand the question?
 10 A. Yes.
 11 Q. Let me ask you another way.
 12 This lawsuit alleges that there was an
 13 incident or incidents in the bathroom at Palmetto
 14 preschool; is that correct?
 15 A. Yes.
 16 Q. Do you know when that incident or
 17 incidents, when they occurred?
 18 A. I do not.
 19 Q. Do you have a sense such as either the
 20 month or anything like that to be able to --
 21 A. I don't recall.
 22 Q. Do you know when [REDACTED] stopped going to
 23 Palmetto preschool?
 24 A. I don't recall.
 25 Q. Do you know if it was in the year 2020 or

1 2021, what year it was?
 2 A. I believe it to be 2020.
 3 Q. So with regards to the subject incidents
 4 do you have a sense of whether it was still the
 5 summer, the fall, the winter, the spring? Any
 6 sense of that?
 7 A. Summer, I believe.
 8 Q. What is your understanding of what
 9 occurred in those incidents or incident?
 10 A. I know there was an incident my wife had
 11 brought to my attention and said she was going to
 12 meet with the administrator and bring it to their
 13 attention.
 14 Q. So your wife brought an incident to your
 15 attention; is that correct?
 16 A. Yes.
 17 Q. Where were you when your wife brought this
 18 to your attention?
 19 A. I do not recall.
 20 Q. Do you recall if you all were discussing
 21 it in person or if it was over the phone?
 22 A. In person.
 23 Q. But you're not sure if you were at your
 24 house or somewhere else?
 25 A. No.

1 Q. What did your wife tell you?
 2 A. She told me about an incident that
 3 happened in the bathroom and that she would bring
 4 it to their attention so this incident wouldn't
 5 happen again.
 6 Q. Specifically with regards to the incident
 7 in the bathroom, what did she tell you about that?
 8 A. That another individual, child, had made
 9 [REDACTED] feel uncomfortable and was in the stall
 10 with her. That's to the best of my ability what I
 11 remember.
 12 Q. So another child. Did she say the child's
 13 name?
 14 A. Yes.
 15 Q. What did she say?
 16 A. [REDACTED]
 17 Q. Did she say her last name?
 18 A. No.
 19 Q. Do you know [REDACTED] last name?
 20 A. No.
 21 Q. Was [REDACTED] in [REDACTED] class?
 22 A. Yes.
 23 Q. Had you ever heard [REDACTED] name before?
 24 A. No.
 25 Q. Do you know [REDACTED] parents?

1 A. No.
 2 Q. Do you know any other parents that had
 3 kids in [REDACTED] class at Palmetto preschool?
 4 A. Not that I recall.
 5 Q. So your wife indicated that [REDACTED] had made
 6 [REDACTED] feel uncomfortable in the stall.
 7 Did she give any more details about what
 8 specifically had happened?
 9 A. Yes.
 10 Q. What were those details?
 11 A. She had forced I guess a paper in
 12 [REDACTED] privates with [REDACTED] not wanting that,
 13 toilet paper.
 14 Q. So she had forced toilet paper in
 15 [REDACTED] privates with [REDACTED] not wanting that
 16 is what she relayed to you?
 17 A. Yes.
 18 Q. Anything other than toilet paper? Any
 19 other objects or bodily parts or anything like
 20 that?
 21 A. I believe it was the toilet paper roll.
 22 Q. As in the cardboard toilet paper roll?
 23 A. Yes.
 24 Q. Did that happen in a stall in the
 25 bathroom?

1 A. Yes.
 2 Q. Did your wife indicate how she had heard
 3 about this or how this had been relayed to her?
 4 A. Yes.
 5 Q. What did she say?
 6 A. Maddison had told her.
 7 Q. Do you know when [REDACTED] had told her in
 8 comparison to when she was telling you about it?
 9 A. I do not recall.
 10 Q. Do you know if it was the same day or a
 11 different day?
 12 A. I do not recall.
 13 Q. Do you know where [REDACTED] was when she
 14 told your wife?
 15 A. Home.
 16 Q. Do you recall what time of day this was
 17 when you all had this conversation?
 18 A. I do not recall.
 19 Q. With regards to the specifics of what your
 20 wife relayed to you, did your wife indicate that
 21 anything had actually penetrated [REDACTED]
 22 privates?
 23 A. She did not indicate that to me, no.
 24 Q. So did she say that it had or she just
 25 didn't say whether or not it had?

1 A. Didn't say.
 2 Q. Did she indicate whether or not there were
 3 any witnesses to this incident other than [REDACTED] and
 4 [REDACTED]
 5 A. She did not indicate.
 6 Q. So your wife told you that [REDACTED] had
 7 told her about this incident.
 8 What else did your wife say during this
 9 conversation?
 10 A. That she would bring it to the attention
 11 of the school administrator.
 12 Q. How was your wife during this
 13 conversation? How would you describe her mood or
 14 how she was doing?
 15 A. I don't recall.
 16 Q. Do you recall her being upset or calm?
 17 A. Again, I don't recall.
 18 Q. So beyond her saying that [REDACTED] had forced
 19 paper in [REDACTED] privates in a stall and
 20 [REDACTED] didn't like that and that she was going to
 21 make the school administration aware of that, was
 22 there anything else that was discussed during the
 23 conversation?
 24 A. No.
 25 Q. How long did the conversation last?

1 A. I don't recall.
 2 Q. I know you don't recall how long it
 3 lasted. Do you have a sense of whether it was a
 4 lengthy conversation or a short conversation?
 5 A. No.
 6 Q. Did you talk with [REDACTED] about it?
 7 A. No.
 8 Q. Did your wife indicate that she was going
 9 to make anyone else aware of the incident other
 10 than the school administration?
 11 A. No.
 12 Q. Do you know if your wife did bring it up
 13 to the school administrators?
 14 A. Yes.
 15 Q. When did that happen?
 16 A. I don't recall.
 17 Q. Were you there or present when your wife
 18 brought it up to school administration?
 19 A. I was not.
 20 Q. So is your knowledge of that based on what
 21 your wife told you about how that went?
 22 A. Yes.
 23 Q. What did she tell you?
 24 A. She told me that the school would handle
 25 it and switch classrooms between the two children,

1 classes.
 2 Q. Did she indicate who she had spoken with?
 3 A. Yes.
 4 Q. Who was that?
 5 A. Jen.
 6 Q. Do you know where that conversation took
 7 place?
 8 A. At the facility in Carolina Forest.
 9 Q. Specifically do you know an office room, a
 10 receptionist area?
 11 A. I do not.
 12 Q. So your wife told you that the school
 13 indicated they would handle it and that they would
 14 switch classrooms between the two children.
 15 Did she indicate anything else with
 16 regards to the conversation that she had with
 17 school administration about the incident?
 18 A. No.
 19 Q. Do you recall how long that conversation
 20 with your wife lasted?
 21 A. I do not recall.
 22 Q. Do you recall where you all were when you
 23 all discussed it or whether it was an in-person
 24 conversation or over the phone?
 25 A. In person.

1 Q. Do you know if you spoke with your wife
2 about it on the day that she met with school
3 administration or was it at some later date?

4 A. I believe it to be the day that she spoke
5 to the administration.

6 Q. Correct me if I'm wrong, but I believe you
7 indicated you don't know whether or not the day
8 that she spoke with the administration was the day
9 after she spoke with you. Is that fair?

10 A. That's fair.

11 Q. Did you ever have any conversations with
12 anybody about any of these incidents or issues?

13 A. Yes.

14 Q. Who was that?

15 A. That would be my best friend, Mayer Levy.

16 Q. Who is Mayer Levy?

17 A. He's my best friend from Brooklyn.

18 Q. When did you talk with Mayer?

19 A. Two years after the incident.

20 Q. What was the purpose of discussing the
21 incident with him?

22 A. Because he knew [REDACTED] very well. He
23 was there from the day she was born, so he would be
24 someone good from my end regarding her change in
25 behavior.

1 Q. So going back to the conversation in which
2 your wife told you about her conversation with the
3 school administration, do you recall anything about
4 your wife during that conversation, you know,
5 whether she seemed calm, upset, whether she made
6 any indications as to her thoughts on how the
7 conversation went with the school administration?

8 A. Sure. She felt confident that the school
9 was going to handle the situation.

10 Q. At that point did you reach out to anyone
11 individually as opposed -- I can retract that.
12 That was a poorly phrased question.

13 So your wife had reached out to the school
14 administration; correct?

15 A. Yes.

16 Q. Had you reached out to anybody?

17 A. No.

18 Q. So at that point were there any other
19 incidents or events that occurred with regards to
20 [REDACTED] and [REDACTED] or [REDACTED] and any other
21 students after that first incident?

22 A. Yes.

23 Q. What happened?

24 A. My wife brought it to my attention that
25 another incident had occurred.

1 Q. What did she tell you?

2 A. Similar to the first.

3 Q. Can you recall the specifics of what she
4 told you occurred during the incident?

5 A. Like I reiterated, it was similar to the
6 first incident in terms of details.

7 Q. But I've got to ask you exactly what the
8 details were, so with regards to the first incident
9 you already relayed that [REDACTED] had put some toilet
10 paper and the cardboard toilet paper roll in the
11 area of [REDACTED] privates; correct?

12 MS. FLUMIAN: Object to the form.

13 Q. Is that a correct summation of what your
14 testimony was earlier?

15 A. Yes.

16 Q. So what specifically did your wife tell
17 you about with regards to the second incident?

18 A. She said the same incident, same details
19 that happened, the same thing had occurred.

20 Q. Did she make any indication as to whether
21 or not there was any form of penetration of
22 [REDACTED] privates during the incident?

23 A. She did not.

24 Q. The second incident also involved toilet
25 paper?

1 A. Yes, I believe so.

2 Q. Did she indicate that it involved a toilet
3 paper roll?

4 A. I don't recall.

5 Q. Did she indicate where the incident had
6 occurred?

7 A. Yes.

8 Q. Where was that?

9 A. In the bathroom stall again.

10 Q. Did your wife make any indications about
11 whether or not the door to the stall was open or
12 closed?

13 A. No.

14 Q. Did your wife make any indication about
15 whether there was anybody else in the bathroom?

16 A. No.

17 Q. Either for the first or the second
18 incident did your wife indicate that [REDACTED] had
19 indicated how long the incident had taken?

20 A. Not that I recall.

21 Q. Did your wife state with respect to the
22 second incident how she had learned about it?

23 A. Yes.

24 Q. How was that?

25 A. [REDACTED] told her.

1 whether you were in person and witnessed them or
2 copied on an email or a text or saw a letter or
3 anything like that?

4 A. No.

5 Q. So you don't have any firsthand knowledge
6 with regards to any conversations regarding pulling
7 [REDACTED] out of the school. Is that fair?

8 A. Fair.

9 Q. Would your wife have had those
10 conversations with the school?

11 A. Yes.

12 Q. Did your wife tell you about what she
13 spoke about with the school as to the decision to
14 pull [REDACTED] out?

15 A. We hadn't made the decision to pull her
16 out. We didn't discuss it with the school.

17 Q. Do you know if your wife gave the school
18 any reason as to why [REDACTED] was being removed?

19 A. I do not.

20 Q. [REDACTED] was going to the school throughout
21 this time; is that correct?

22 A. Yes.

23 Q. When you all pulled [REDACTED] out of the
24 school, did [REDACTED] continue to go to the school?

25 A. No.

1 with [REDACTED]

2 A. I do not.

3 Q. Do you know when the last time [REDACTED]
4 would have discussed it with anyone would have
5 been?

6 A. I do not.

7 Q. So your recollection as to [REDACTED] being
8 removed from the school, do you have any sense of
9 how much time transpired between these two
10 incidents and when that occurred, whether it was
11 days, weeks, months?

12 A. I don't recall.

13 Q. When she was removed from the school, did
14 she immediately go to another school?

15 A. Yes.

16 Q. Where was that?

17 A. Thomas Gymnastics.

18 Q. How often would she go to Thomas
19 Gymnastics?

20 A. Full time.

21 Q. So similarly from the morning through
22 sometime in the mid to late afternoon?

23 A. Yes.

24 Q. Was there any break in between when she
25 left Palmetto preschool and when she started at

1 Q. So at the same time that you all pulled
2 [REDACTED] out of the school you all removed [REDACTED]
3 from the school?

4 A. Yes, I believe so.

5 Q. Did you feel like [REDACTED] needed to be
6 removed from the school for the same reason,
7 safety?

8 A. There were no incidents with [REDACTED]

9 Q. Then why was [REDACTED] removed from the
10 school?

11 A. To stay with her sister.

12 Q. You've described the two incidents that
13 your wife told you about.

14 Are you aware of any other incidents that
15 occurred at Palmetto preschool?

16 A. No.

17 Q. Did you ever at any point in time discuss
18 these incidents with [REDACTED]

19 A. No.

20 Q. As we sit here today have you ever
21 discussed it with [REDACTED]

22 A. No.

23 Q. Why is that?

24 A. I didn't want to bring it up, trauma.

25 Q. Do you know if your wife has discussed it

1 Thomas Gymnastics?

2 A. I don't recall.

3 MS. FLUMIAN: We have been going for about
4 an hour. I don't need a break, but does anybody
5 need a break?

6 (Brief recess)

7 Q. Going back to the times that you have been
8 to Palmetto preschool, had you ever been in any of
9 the restrooms there?

10 A. Not that I recall.

11 Q. Do you recall any specifics about any
12 observations you would have made about any
13 restrooms at any Palmetto preschool facility?

14 A. Not that I recall, no.

15 Q. With regards to the second incident, I
16 know you described how your wife met with school
17 administration a second time.

18 Did you have any conversations with
19 anybody following the second incident?

20 A. No.

21 Q. Other than informing the school about it,
22 did either you or your wife inform anybody else
23 about it?

24 A. She had spoken to a friend of hers who was
25 a psychiatrist, therapist.

1 with the counselor, are you all privy to what they
2 talk about? Does the counselor tell you
3 afterwards?

4 A. No.

5 Q. Would you say that the counseling has
6 helped?

7 A. Yes.

8 Q. Does [REDACTED] still have any outbursts?

9 A. Yes.

10 Q. How often would you say she has an
11 outburst?

12 A. Once in a blue.

13 Q. Would you say that in your opinion her
14 outbursts seem like they're normal for someone of
15 her age or do you think they're abnormal?

16 A. I don't know.

17 Q. She have any self-confidence issues
18 currently?

19 A. Yes.

20 Q. What are those related to?

21 MS. FLUMIAN: Object to the form.

22 Q. Do you know what they're related to?

23 MS. FLUMIAN: Object to the form.

24 A. No.

25 MR. KNEECE: I'm asking if he knows.

1 Q. How would you describe [REDACTED]

2 A. Not a morning person. [REDACTED] is very
3 strategic. [REDACTED] is more free spirit.

4 Q. It sounds like [REDACTED] is more academic
5 based. Is that fair?

6 A. No. [REDACTED] is very academic based, but

7 [REDACTED] is just more of a free spirit, a skydiver

8 where [REDACTED] would probably like to walk. [REDACTED]

9 would go on a roller coaster. [REDACTED] wouldn't.

10 Q. The first visit that [REDACTED] had with

11 H.O.P.E. Counseling, do you know if it was you or
12 your wife or both of you that took her to that?

13 A. I don't recall.

14 Q. Do you know how your wife found out about
15 H.O.P.E. Counseling?

16 A. I do not.

17 Q. With regards to H.O.P.E. Counseling, is it
18 possible that you were there for the first visit?

19 A. It's possible.

20 Q. Do you remember whether or not you filled
21 out any intake forms?

22 A. I don't recall.

23 Q. Did you ever make any statements to the
24 counselor that you thought that any of the issues
25 that [REDACTED] was having stemmed from the issues at

1 MS. FLUMIAN: I know, but you're using the
2 words "related to," and you're asking someone who
3 has already said they're not a medical
4 professional.

5 Q. Can you describe the current
6 self-confidence issues that she has?

7 A. The same. She's not pretty or we love her
8 sister more or, you know, it's things like that.

9 Q. How often does she make statements like
10 that?

11 A. Once every few weeks.

12 Q. Does her younger sister currently have any
13 self-confidence issues?

14 A. No; self-esteem more with homework,
15 student related.

16 Q. So [REDACTED] has issues with self-esteem
17 about her academic performance?

18 A. Yes.

19 Q. Would you say that [REDACTED] and [REDACTED]
20 have -- how would you describe their personalities?
21 Would you say they're similar, different?

22 A. Different.

23 Q. It seems like you emphasized that.

24 Would you say they're very different?

25 A. Yes.

1 Palmetto preschool?

2 A. I don't recall.

3 Q. Do you know when she started her
4 counseling, if [REDACTED] was having any issues with
5 her teachers at River Oaks Elementary?

6 A. I don't recall.

7 Q. Do you recall any issues she ever had with
8 any teachers there?

9 A. No.

10 Q. I know you described the rehab in 2016;
11 correct?

12 A. Correct.

13 Q. Your wife, has she ever had any substance
14 abuse issues?

15 A. No.

16 Q. Let's start with your side of the family.

17 Has your side of the family ever had any
18 mental health issues?

19 A. Mental health issues?

20 Q. Such as depression, anxiety, or any things
21 like schizophrenia, anything like that?

22 A. No.

23 Q. What about with your wife's side of the
24 family; are you aware of any mental health issues?

25 A. No.

1 Q. Has anybody on your side of the family --
2 I know you talked about your own, but has anybody
3 else had any type of substance abuse issues?

4 A. Yes.

5 Q. Can you tell me about that?

6 A. That was my father.

7 Q. What kind of issues did he have?

8 A. Every issue. Substance abuse as well.

9 Q. I know you indicated obviously that your
10 mother lives down here now.

11 Your father, is he still living?

12 A. No.

13 Q. When did he pass away?

14 A. September 5, 1999.

15 Q. How did he pass away?

16 A. Overdose.

17 Q. I'm sorry to ask you about that, but any
18 other family members of yours that have any
19 substance abuse issues other than you and your
20 father?

21 A. Not to my knowledge.

22 Q. Do you know whether or not your wife's
23 side of the family has any substance abuse issues?

24 A. No. We're not that close.

25 Q. Do you know if the counselor ever made any

1 indications to you all that the counselor was of
2 the opinion that any of the [REDACTED] issues were
3 stemming from these incidents at Palmetto
4 preschool?

5 A. I wasn't present for that conversation.

6 Q. But has your wife ever told you that the
7 counselor has made any indications?

8 A. No.

9 Q. Has anybody else, whether the counselor or
10 anyone else, ever told you that they think that any
11 of the issues you described with [REDACTED] stem from
12 the incidents at Palmetto preschool?

13 A. Not that I recall.

14 Q. Has your wife ever told you that anyone
15 has ever told her that they are of that opinion?

16 A. Not that I recall.

17 Q. Has [REDACTED] ever relayed to you all that
18 she ever was worried or stressed out or concerned
19 that you all were having any marital strife or that
20 you all were going to get a divorce or anything
21 like that?

22 A. Yes.

23 Q. Can you tell me about when that occurred
24 and those conversations?

25 A. Last year.

1 Q. Were you and your wife undergoing any type
2 of marital strife or home issues?

3 A. Financial. I had the business. The
4 business was struggling. I was out of work. That
5 just, you know, caused obviously some friction, and
6 [REDACTED] did mention that she thought we would be
7 getting divorced, but to myself and my wife that
8 was just marriage, you know, but to a 9 year old at
9 the time, maybe she didn't understand that's life.

10 Q. Were you all arguing and she witnessed the
11 arguments or anything like that?

12 A. I think just basic stuff.

13 Q. Do you know of any instances where

14 [REDACTED] has touched her privates in front of other
15 people?

16 A. No.

17 Q. Has your wife or anybody else ever told
18 you that she had ever had any instances of touching
19 her privates in front of other people?

20 A. Not that I recall.

21 Q. Has your wife ever told you that [REDACTED]
22 has ever been caught masturbating in front of
23 anyone?

24 A. Not anybody else, no.

25 Q. Has your wife ever told you about [REDACTED]

1 masturbating?

2 A. Yes.

3 Q. I'm sorry I have to ask you about this,
4 but what has your wife told you?

5 A. She just was touching herself a lot more
6 for her early age. Again, you know, I didn't
7 really know if that would be normal or what.

8 Q. Did you ever witness any of that behavior?

9 A. No. Geez, my God.

10 Q. Do you recall when that was occurring?

11 A. It would be a few years back. I don't
12 recall the exact date.

13 Q. The events at Palmetto preschool, were
14 they ever reported to law enforcement?

15 A. Not that I recall.

16 Q. Similarly, were they ever reported to any
17 type of regulatory authority, state agency,
18 anything that you're aware of?

19 A. No, not that I recall.

20 Q. Do you have any knowledge of these days
21 when [REDACTED] goes to counseling what she talks
22 about with the counselor?

23 A. I never ask.

24 Q. So do you believe that the counseling that
25 she currently goes to, do you believe that that

1 stems from these incidents at Palmetto preschool?

2 A. Again, I'm not a medical professional.

3 Q. Do you know when the last time [REDACTED]
4 went in for any type of pediatric visit was?

5 A. No.

6 Q. Do you all have any plans to end her
7 counseling at any point?

8 A. No.

9 Q. Is that because you believe the counseling
10 is helping?

11 A. Yes.

12 Q. Has [REDACTED] ever gone to any counseling?

13 A. No. She's quite jealous. She thinks it's
14 like -- I don't know.

15 Q. Do you all have any plans to have Morgan
16 go to counseling?

17 A. No.

18 Q. I was going to ask you about some
19 witnesses that you all identified in discovery.

20 You've already said Mayer Levy, and I
21 understand that's a childhood friend of yours;
22 correct?

23 A. Yes.

24 Q. He lives in Brooklyn?

25 A. Yes.

1 Q. You indicated that Mayer would be able to
2 discuss the changes in [REDACTED] personality.

3 A. Yes.

4 Q. When was the last time that Mayer would
5 have seen [REDACTED]

6 A. A few months ago.

7 Q. How often do you all go to Brooklyn?

8 A. Me personally, I was going a bunch for
9 work, but the family once a year, and he would come
10 out once a year.

11 Q. So you all would go up there once a year
12 and he would come down here once a year?

13 A. Yes.

14 Q. So other than those I guess once a year up
15 there and once a year down here, would he ever see
16 [REDACTED] aside from that?

17 A. Not in person, but to give you more
18 understanding of our relationship, I talk to --
19 well, over the years I've spoken to Mayer probably
20 15 times a day because we're both in sales, so if
21 [REDACTED] is around me -- we're always Facetiming,
22 so he probably talks to [REDACTED] more than any
23 other family member does because I'm always on the
24 phone Facetiming. So he has almost daily
25 interaction with her even since I left Brooklyn.

1 Q. Megan Romano-Dibner, is that the name of
2 the person that you were trying to recall earlier?

3 A. Correct.

4 Q. You're indicating she's some type of
5 counselor or mental health professional?

6 A. Yes.

7 Q. And your wife had reached out to her; is
8 that right?

9 A. Yes.

10 Q. But you're not sure when that occurred?

11 A. No.

12 Q. It says here she is anticipated to testify
13 regarding her conversations with plaintiff Mother
14 Doe regarding the incidents and her observations of
15 plaintiff Jane Doe, who is [REDACTED] of course,
16 before and after the incidents.

17 How often would you all see Megan
18 Romano-Dibner?

19 A. I haven't seen her in years.

20 Q. Do you know if [REDACTED] has ever seen her?

21 MS. FLUMIAN: Object to the form.

22 Q. You can answer.

23 A. No. She was a Brooklyn friend. They have
24 come out to visit us once for a week for the
25 holidays. That's it.

1 Q. When she came to visit, was that before or
2 after your kids were born?

3 A. After. Since we moved out here.

4 Q. When was the last time that Mayer would
5 have seen [REDACTED]

6 A. Yes; plenty.

7 Q. How often do you all go to Brooklyn?

8 A. Me personally, I was going a bunch for
9 work, but the family once a year, and he would come
10 out once a year.

11 Q. So you all would go up there once a year
12 and he would come down here once a year?

13 A. Yes.

14 Q. So other than those I guess once a year up
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19 well, over the years I've spoken to Mayer probably
20 15 times a day because we're both in sales, so if
21 [REDACTED] is around me -- we're always Facetiming,
22 so he probably talks to [REDACTED] more than any
23 other family member does because I'm always on the
24 phone Facetiming. So he has almost daily
25 interaction with her even since I left Brooklyn.

1 Q. When she came to visit, was that before or
2 after your kids were born?

3 A. After. Since we moved out here.

4 Q. So has [REDACTED] ever met Megan
5 Romano-Dibner?

6 A. Yes; plenty.

7 Q. Do you know if she has ever corresponded
8 with her either via laptop, Zoom, Facetime,
9 anything like that?

10 A. I don't know.

11 Q. Kathleen Jerome, who is that?

12 A. Our neighbor.

13 Q. Do you know why she's listed as a witness
14 in the case?

15 A. She's like a grandmother to [REDACTED]

16 Q. When you say "a neighbor," is that a
17 next-door neighbor, down the street?

18 A. Next-door neighbor.

19 Q. Have you ever spoken with Kathleen Jerome
20 about the lawsuit?

21 A. No.

22 Q. Similarly, have you ever spoken with Megan
23 Romano-Dibner about the lawsuit?

24 A. No.

25 Q. Have you ever spoken with Mayer Levy about

1 the lawsuit?
 2 A. Yes.
 3 Q. What have you all discussed?
 4 A. Just the basics of the case, but not
 5 details of the incident.
 6 Q. Shan Frances is a guidance counselor at
 7 River Oaks Elementary School. Have you ever spoken
 8 with her?
 9 A. No.
 10 Q. Do you know what she would have to testify
 11 with regards to this case?
 12 A. No.
 13 Q. Then Rene Cazier, principal at River Oaks
 14 Elementary, have you ever spoken with her?
 15 A. No.
 16 Q. Do you know what she would have to testify
 17 with regards to this case?
 18 A. No.
 19 Q. Have you ever spoken with Jen Cusack
 20 beyond the conversations you described earlier,
 21 just saying hi and bye?
 22 A. No.
 23 Q. Amy Annable, do you know who that is?
 24 A. No.
 25 Q. In the Interrogatories with regards to a

1 question about a statement of all damages claimed
 2 to have been sustained by the parties, and granted
 3 this Interrogatory response was back on August 17,
 4 2023, but the response was: "To date plaintiff has
 5 sustained approximately \$1,281.51 in medical
 6 expenses related to therapy services related to the
 7 subject incidents."
 8 A couple of questions with regards to
 9 that. Do you know what that number would be now?
 10 Would it be the same? Would it be more?
 11 A. I don't know.
 12 Q. Second, other than the therapy services
 13 related to the subject incidents, do you know of
 14 any other damages that you all have incurred?
 15 A. I don't know.
 16 Q. Have you ever filed any lawsuits before?
 17 A. Yes.
 18 Q. Can you tell me what lawsuits you've
 19 filed?
 20 A. I filed a lawsuit -- I was in a car
 21 accident in 2011, I believe.
 22 Q. Were you injured in that accident?
 23 A. Yes.
 24 Q. What kind of injury did you sustain?
 25 A. A torn labrum on my shoulder.

1 Q. You filed a lawsuit. Did that settle, go
 2 to trial?
 3 A. Settled.
 4 Q. Was that in New York?
 5 A. Yes.
 6 Q. Are you aware of any investigations of the
 7 incidents at Palmetto preschool?
 8 MS. FLUMIAN: Object to the form.
 9 Q. Did you understand my question?
 10 A. No, I don't know.
 11 Q. Did you ever have any conversations with
 12 any school administrators at Palmetto preschool
 13 with regards to any other issues with the school
 14 such as COVID-19 policies or anything like that?
 15 A. No.
 16 Q. Have you ever had any conversation with
 17 [REDACTED] parents?
 18 A. No.
 19 Q. Why is that?
 20 A. I never met them.
 21 Q. Do you know if your wife has ever had any
 22 conversation with [REDACTED] parents?
 23 A. I don't know.
 24 Q. Do you know if [REDACTED] goes to River Oaks
 25 Elementary?

1 A. She does.
 2 Q. Has [REDACTED] ever said anything about her?
 3 A. Yes.
 4 Q. What has she said?
 5 A. That she saw her.
 6 Q. Did she make that statement to you?
 7 A. I think to both of us. She acknowledges
 8 that she goes there.
 9 Q. When she has acknowledged that, did she
 10 make any reference to these incidents at Palmetto
 11 preschool?
 12 A. Not to my knowledge.
 13 Q. Do you know whether [REDACTED] has any
 14 memory or recollection of these incidents at
 15 Palmetto preschool?
 16 A. I don't know.
 17 Q. Do you know if she's friends with [REDACTED]?
 18 A. She is not.
 19 Q. Has [REDACTED] ever been prescribed any
 20 medication that you believe is related to these
 21 incidents at Palmetto preschool?
 22 A. Not that I recall.
 23 Q. Has she ever been prescribed any
 24 medication for any type of mental health issues or
 25 concerns?

1 A. Not that I recall.

2 Q. Unfortunately circling back to the
3 conversation that you and your wife had with
4 regards to your wife saying that [REDACTED] had been
5 masturbating, do you know how long of a period of
6 time that she was apparently doing that?

7 A. I don't recall.

8 Q. Do you have a recollection of whether it
9 was something that occurred over a few days, weeks,
10 months, or years?

11 A. It was going on for a while. Months.

12 Q. Do you have any recollection of when
13 specifically, like the year or how old she would
14 have been?

15 A. I don't recall.

16 Q. Have you had the same phone number since
17 2020?

18 A. No.

19 Q. Do you know what your number would have
20 been at the time?

21 A. Yes.

22 Q. What?

23 A. [REDACTED] I feel so terrible for
24 that person.

25 Q. Do you know what provider you would have

1 Q. How would you say that [REDACTED] is as a
2 basketball player?

3 A. She's athletic.

4 Q. How is her confidence when it comes to
5 sports?

6 A. She's competitive.

7 Q. Does she ever have any self-confidence
8 issues when it comes to sports or basketball,
9 gymnastics? Do you know?

10 A. No. She wants to be the best.

11 Q. How would you say your coaching style is
12 in basketball?

13 A. I'm the Bobby Knight of the rec. league.

14 Q. Does she seem to respond well to that
15 style of coaching?

16 A. Yes.

17 MR. KNEECE: Those are all the questions
18 I've got for you. I appreciate your time today.

19 Julia may have some followup for you, and if so, I
20 may have some followup beyond that, but thank you.

21 MS. FLUMIAN: I'm going to just ask a
22 couple.

23 EXAMINATION

24 BY MS. FLUMIAN:

25 Q. You were asked a question that I objected

1 had at the time?

2 A. T-Mobile.

3 Q. Other than the witnesses that we went
4 through a short time ago, and I'll include the
5 counselor as well because she was included as a
6 witness, do you know of anybody else who would have
7 any knowledge of any of the facts that are
8 pertinent in this lawsuit?

9 A. No.

10 MR. KNEECE: If I could have a two- or
11 three-minute break while I figure out if I have
12 anything else I want to ask.

13 (Brief recess)

14 Q. The only thing I want to ask you about is
15 a couple of [REDACTED] hobbies.

16 Do you coach her basketball team?

17 A. I do. Well, now I'm coaching again.

18 Q. So you were coaching and then you stopped
19 coaching?

20 A. And I'm coaching again. I was traveling,
21 so I couldn't commit.

22 Q. Is that on Saturdays or after school?

23 A. The games are Saturday mornings. The
24 practices are Tuesday nights. That's January
25 through March.

1 to regarding conditions that she may have, and you
2 were asked just sort of ubiquitous terms about
3 medical conditions and medical treatment.

4 Is it fair to say that you would defer to
5 the medical records for what kinds of treatment
6 your daughter may or may not have ever received for
7 any medical or mental condition?

8 A. Yes.

9 Q. You were asked a question that I objected
10 to regarding investigations.

11 What do you think he meant when he asked
12 you about investigations?

13 A. If we had hired a private eye.

14 Q. So may I assume that you did not hire a
15 private eye?

16 A. We did not.

17 Q. Are you aware of any investigation
18 performed by the defendant into what happened?

19 A. No.

20 MS. FLUMIAN: Those are all my questions.
21 Thanks.

22 MR. KNEECE: I don't have any followup.
23 (The deposition concluded at 1:00 p.m.)
24
25

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1 parent nonpayment of fees?

2 A. Yes. Sorry. I was talking about why a child

3 might be expelled, not why a family might be removed.

4 A family will be removed for nonpayment of fees any

5 time fees aren't paid.

6 Q. Based on your prior answer, do I understand

7 that I have reviewed all of [REDACTED] file that is

8 in possession of Palmetto Preschool?

9 A. Yes.

10 Q. There --

11 A. It has been a while. But, yes.

12 Q. -- there's no documentation that could exist

13 about her that you have not reviewed?

14 A. I do not believe so.

15 Q. And was the DSS report in her file?

16 A. No. The DSS report was in the file that we

17 discussed that all of the DSS reports go in.

18 Q. Let's talk about video and audio recordings.

19 Do you video the classrooms?

20 A. Yes.

21 Q. What happens to those videos?

22 A. They stay on there until they record over, I

23 believe.

24 Q. How long do they record over or how long

25 until they record over?

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1 A. I can't tell you. I definitely can't tell

2 you how long it was in 2020.

3 Q. Who set up your surveillance system?

4 A. I think it's WTS.

5 Q. And would that also be true for the Market

6 Commons location?

7 A. WTS was not who set it up originally. But

8 when we had new equipment installed, I believe WTS did

9 Market Common, as well.

10 Q. And did anyone pull any video recordings

11 related to my client's first report?

12 A. No. There would be no video recordings

13 because, at Market Common, in the gym, there is no

14 video equipment.

15 Q. Why?

16 A. Because the academy who actually has the gym

17 does not have the same video equipment that we do. And

18 we just borrow their gym.

19 Q. Just so I understand, what you mean is the

20 video equipment that's in that room does not belong to

21 you; it belongs to them?

22 A. There is no video equipment, to the best of

23 my knowledge, in Palmetto Academy's gym.

24 Q. Do you audio record anywhere --

25 A. We --

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1 Q. -- in any location?

2 A. -- we do now. We did not back in 2020.

3 Q. And do you have any documentation related to

4 the videos surveillance system that you have in place

5 at Carolina Forest, meaning do you have the original

6 install paperwork, including, like, the invoice for all

7 of the equipment?

8 A. It may exist somewhere. I could not readily

9 tell you where it is.

10 Q. If you wanted to pull a video from Carolina

11 Forest back in 2020, who would have you gone to, to ask

12 them to pull it?

13 A. I would have gone over and pulled it or Karla

14 would have pulled it.

15 Q. So either of you knew how?

16 A. Lots of times, she had to help me figure it

17 out. But yes.

18 Q. Okay. Did you ever pull -- ever -- ever pull

19 any video from that time period?

20 A. Not that I am aware of.

21 Q. Have you done it ever?

22 A. Yes, usually with Karla on the phone to help

23 me push the right buttons. Technology is not my

24 specialty.

25 Q. And as we sit here today, as you've already,

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1 kind of, indicated, you don't know how long any video

2 would have been kept?

3 A. I do not.

4 Q. And, to your knowledge, was any video

5 provided to DSS when they came in '21 related to this

6 incident?

7 A. No. The video definitely would not have

8 existed 12, 14 month later.

9 Q. And it doesn't make any sense that it would

10 have been included in a subpoena, would it?

11 A. What do you mean?

12 Q. A subpoena that was issued by your former

13 attorney asked for video recording. And so, since it

14 definitely didn't exist in 2021, that subpoena issued

15 in 2023 would have been for nothing, correct?

16 A. Yes.

17 Q. Did you consult with anyone when creating

18 your personnel handbook?

19 A. We had a personnel handbook for a lot of

20 years. I really don't remember.

21 Q. Like, for -- did you, like, go to any

22 seminars where they talked about what you should

23 include or not include?

24 A. Yeah. I've taken some random trainings in

25 early childhood policy, not anything where we went

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Cultural Issues in Disclosures of Child Sexual Abuse

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CULTURAL AND DISCLOSURE ISSUES

Cultural Issues in Disclosures of Child Sexual Abuse

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Cultural norms affect the likelihood that child sexual abuse will be discovered by an adult or disclosed by a child. Cultural norms also affect whether abused children's families will report child sexual abuse to authorities. This article explores the ways ethnic and religious culture affect child sexual abuse disclosure and reporting, both in the United States and internationally. Guidelines for culturally sensitive child abuse interviewing are provided to facilitate disclosures of abuse from culturally diverse children in formal settings.

KEYWORDS *child sexual abuse, disclosure, culture, cultural competence, interviewing, forensic interviewing, multicultural, international*

Disclosure of child sexual abuse (CSA) is complicated, often delayed, and has implications for long-term recovery from the effects of abuse. CSA is found in most cultures and is almost uniformly shrouded in secrecy and silence. The process and outcomes of disclosures of CSA vary greatly by culture as well as by the child's age, gender, and other variables. This article explores cultural issues in the disclosure of CSA and culturally competent

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ways to facilitate disclosures. We begin by establishing disclosures as a subset of discovery of CSA, which can also take other forms. Next, we briefly review what is known about disclosures of CSA in general. While these studies have informed our practice work, they often fail to untangle cultural variation in disclosures. We then examine the ways culture plays a significant role in issues of CSA disclosure and reporting, looking at both United States and international examples. Finally, we provide guidelines for culturally sensitive interviewing for CSA, based on both the available data and our clinical experience.¹

DISCOVERY OF CHILD SEXUAL ABUSE

CSA is revealed in many ways, only one of which is direct disclosure by child victims to an adult when seeking protection or help. CSA often does not come to light because of a child's disclosure about it but rather through multiple other routes that lead to discovery. For instance, children may drop hints to parents or teachers that they hope will alert them to something unpleasant ("I don't like that babysitter" or "I couldn't sleep last night"). An adult may catch a glimpse of an inappropriate action that may not be obvious abuse but rather, more likely, appears to be only "odd" or suspicious behavior. Another child or adult may accidentally mention something that alerts an adult or at least creates suspicion. A parent may notice a child's bloody or otherwise suspiciously stained underwear when doing laundry. A note or diary may be found. Children may show signs of physical trauma through difficulty walking or chronic sore throats, or they may present with unexplained somatic complaints such as repeated head- or stomachaches. Children may present at the emergency room with genital damage, a sexually transmitted disease (STD), or even pregnancy. From our clinical experience, family members most commonly sense that something "is not right" and notice a certain amount of secrecy but cannot put their finger on what's wrong.

As noted by Tishelman, Meyer, Haney, and McLeod (this issue), few studies examine paths to discovery other than disclosure. In one study (Plummer, 2006), almost half of mothers of sexually abused children ($N = 125$) had a feeling that something was amiss before there was any clear evidence of sexual abuse. These mothers (66% White,² 22% African American, 12% biracial) reported taking a total of 301 actions in an attempt to make sense of their vague suspicions. Actions taken included talking with friends or family, seeking more information about abuse, watching the child more carefully, addressing the suspected perpetrator, and talking with the child. This informal response, prior to any official systems intervention, illustrates that in coming to learn of sexual abuse and in considering actions to take once it is suspected, families make decisions both within and outside

formal structures. These mothers first came to learn of abuse from a variety of sources: the child's statement (42%), a professional (15%) and a nonprofessional (generally friend or family; 13%), seeing something (6%), and a doctor's report, abuser confession, or other sources (9%). Fifteen percent of these mothers stated they first learned of the abuse through their child's behavior. When asked to list all of the types of evidence that increased their confidence that abuse had occurred, the mothers in this study stated they were most convinced by the following evidence: child's disclosure (74%), child's behavior (66%), and child's emotional reactions (60%). While many factors increased maternal *uncertainty* about whether CSA had occurred, 33% of the mothers mentioned denial by the suspected abuser as especially influential. One-third of the suspecting mothers confronted the suspected abuser, who denied the abuse or constructed an alternative explanation that alleviated the mothers' suspicions.

How key adults believe they would recognize CSA influences what actions, if any, they will take to intervene. When asked about how a person could detect sexual abuse, African American and Latina women in one study discussed observing a child's behavior as the most likely way to detect CSA, such as seeing a child acting withdrawn or crying a lot (Fontes, Cruz, & Tabachnik, 2000, 2001). In the same study, African American and Latino men responded differently, talking about irregularities in the suspected offender (such as "walking funny" or "always hanging around kids"). They also described behaviors that they considered suspicious, such as a man "always trying to pull children onto his lap and give them rides and stuff." Interestingly, neither the men nor the women in this study mentioned the possibility that children might respond to sexual abuse with aggression or other acting out behaviors. The first step toward discovery, for professionals and caregivers, is the willingness to notice, receive, and act on indications of CSA that may be indirect and not immediately clear.

DISCLOSURE OF CHILD SEXUAL ABUSE

Disclosure by the victim is one significant way incidents of CSA are discovered, yet disclosure is often delayed and many children keep abuse secret into adulthood (Alaggia, 2004; London, Bruck, Ceci, & Shuman, 2005; Smith et al., 2000). In fact, the majority of sexually abused children do not reveal sexual abuse during childhood (London et al., 2005). Often, the child is "groomed" to become accustomed to an escalating set of events that progress from "innocent" touch to serious abuse incidents (Salter, 1995). By the time the child is experiencing severe abuse, several things may have occurred: the child may feel responsible or feel guilty for not telling sooner and the child may become inappropriately acclimated to the abuse as a normal life event and may even enjoy certain aspects of the relationship with the offender and

thus take steps to protect the offender. Children are also frequently threatened not to tell (Salter, 1995). Active disclosure in childhood results in more violent abuse for some children (Jonzon & Lindblad, 2004). Furthermore, 20% to 50% of children may be initially asymptomatic, making detection even more difficult (Kendall-Tackett, Williams, & Finkelhor, 1993). All of these factors can be reinforced or influenced by cultural mores.

Children often grapple with whether to tell, whom to tell, what to tell, and when to disclose so as to obtain protection while minimizing negative outcomes for themselves and their families. Children frequently experience disbelief, confusion, and unreality as they try to understand the trauma they have suffered in a context in which their lives continue as if nothing has happened. Children may not have the linguistic or cognitive abilities to understand completely what has happened, or the offender may have deliberately provoked confusion, and so children often dismiss the early incidents as “a dream,” “a nightmare,” or just their imagination and therefore are hesitant to disclose (Everson, 1997). Rarely does a child simply make a straightforward report after the first incident of abuse (Alaggia, 2004).

Even when they are interviewed in the best of circumstances by well-trained personnel, children who have been abused often resist disclosing. Lawson and Chaffin (1992) found that 57% of the interviewed children in their sample ($N = 28$) denied abuse initially in cases that were later confirmed through diagnosis of a STD. The authors found disclosure rates to be 3.5 times greater when the nonoffending caretaker accepted the possibility of abuse. And yet, as we discuss, the costs of disclosing to both children and their families may seem to offset its possible benefit as children and nonoffending family members consider their options.

The act of disclosing does not necessarily result in increased safety for a child. Children who disclose to their pets or other children, for example, may experience some catharsis but are not likely to obtain meaningful protection. Adults who receive disclosures are often unprepared to respond appropriately because of lack of information, fear, and their own emotional reactions. Even when adults listen to a disclosure, they may respond in ways that upset the child or contribute to a retraction of the report, or they may misinterpret the situation by either exaggerating or minimizing its significance (Jensen, Gulbrandsen, Mossige, Reichelt & Tjersland, 2005; Staller & Nelson-Gardell, 2005). If the person to whom a child discloses then confronts the abuser and the abuser successfully defends himself or herself against the accusations, this often results in both punishment and increased suffering for the child, who has learned that—indeed—he or she will not be believed. (Offenders will often admonish children that if they tell what has happened, they will not be believed.)

Children who try to disclose are often punished for “lying.” Here is a rather typical description by a mother of her reaction when her teen daughter accused her stepfather of making a sexual pass toward her: “I discounted

her accusations at the time due to Roger's anger and claim she was lying. He compared it to her track record with running away, suicide attempts, and substance abuse" (C. Plummer, unpublished clinical experience).

Children who try to disclose may be instructed to avoid falling victim again through inadequate suggestions such as "Never sit on your uncle's lap" or "Make sure you wear panties when you go to sleep at night." While these kinds of suggestions may be well-intentioned, they fail to take into account the power differential between the abuser and the child, and they leave the child feeling inadequate for being unable to fend off the abuser. Children who disclose may be sent to live with relatives in another city, leaving the offender home with other potential victims and leaving the victim to feel as if he or she is being banished. In this way, a child learns to stop talking about the abuse.

In the next section, we will explore how a victim's ethnic culture affects his or her disclosure process. We base this discussion on the published literature and on our own clinical and research experience.

DISCLOSURES OF CHILD SEXUAL ABUSE: THE CULTURAL CONTEXT

Hanson and colleagues (2003) conducted a meta-analysis of articles about adolescent sexual assault reporting and noted that while methodological and definitional differences among studies make comparisons hard to interpret, some factors seem to affect disclosures. In particular, they note that victim age, the relationship between the victim and perpetrator, and the victim's use of substances at the time of the assault all influence disclosures. The picture they paint of cultural influences is less clear; some researchers found significant differences, whereas others did not. For example, Katerndahl, Burge, Kellogg, and Parra (2005) found more of a correlation between acculturation level and reporting of CSA than with ethnicity itself and reporting. In examining specific groups more carefully, differences in how the abuse happened and how secrecy is maintained were revealed. Some studies show that Hispanic victims may be more likely to live with their perpetrator (Rao, DiClemente, & Ponton, 1992) or to be abused by a parental figure (Feiring, Coates, & Taska, 2001) than are non-Hispanic Whites or African Americans. In a study comparing Hispanic and African-American families, 159 girls and their parents were surveyed. Hispanic girls experienced more abuse incidents, waited longer to disclose, and were also significantly more likely to be abused by fathers and stepfathers than were African-American girls (Shaw, Lewis, Loeb, Rosado, & Rodriguez, 2001). Apparent differences in ethnicity or culture in reporting, therefore, may be more related to differences in these abuse characteristics among groups than to cultural differences per se.

Even as the literature remains underdeveloped in the area of culture and disclosures, our own research and clinical work leads us to believe strongly that cultural values and families' position within society impact the likelihood of disclosure and also impact the steps professionals need to take to support disclosures. The decision to disclose or report CSA is not a solitary, individual decision. These decisions are made in social contexts (see Cromer & Goldsmith, *in press*, for a discussion of the relationship of societal myths and child disclosures). Children and their families are influenced by the awareness that others—both within and beyond their culture and social networks—are watching, judging, encouraging, and demanding certain responses.

Cultural Values Impacting Disclosure

No culture is defined solely by one value, nor is any particular value held by one culture exclusively. However, understanding values that are often held closely by people in a specific culture can enhance our ability to overcome barriers to the disclosure of CSA among families within that culture. Discussion of the values that support or stifle disclosures is largely speculative; this has not been widely studied. Certain issues that present differently and are weighted heavily in various cultures may silence disclosures of CSA. These issues include shame; taboos and modesty; sexual scripts; virginity; women's status; obligatory violence; honor, respect, and patriarchy; and others.

SHAME

Fontes (2005) discussed the centrality of shame in many cultures and the ways in which shame can inhibit disclosures of CSA. This is particularly important because shame also may be a strong predictor of postabuse adjustment (Feiring, Taska, & Lewis, 2002). Many aspects of sexual abuse can contribute to feelings of shame, including the topic, the involvement of the authorities, and the possible perceptions of neighbors and friends. Religious taboos around sex can inhibit disclosures, as children try to refer to something that's happening "down there" without using prohibited words. Children are also often inadequately educated about both their bodies and appropriate sexuality. Children may feel shame about coerced involvement in specific acts, such as sexual interaction with a person of the same sex or being sexually penetrated with objects. Offenders often take advantage of children's feelings of shame to enforce silence by making children break rules (e.g., by imbibing alcohol, going to a prohibited place, or posing for pornographic photographs) and then telling children they will "get in trouble" if they disclose (Fontes, 2007).

TABOOS AND MODESTY

It is difficult for children to disclose in a cultural environment that suppresses discussion of sexuality. One Puerto Rican psychotherapist described sex education in Puerto Rican families as, “*Chiton! De eso no se habla!*” (Hush! We don’t speak about that!). Elena, who grew up in a fundamental Christian family and community in Puerto Rico, describes the way her abusive father maintained her silence about the abuse, which began when she was 9 and progressed to full intercourse when she was 12. Elena would occasionally flee to neighbors’ houses when her father’s sexual demands became overwhelming. Her father would inevitably find her and beat her in front of her mother and neighbors, contributing to the general perception that she was a “bad girl”:

At first he would tell me, “This is something that happens between fathers and their daughters, and mothers and sons. But we can’t speak about it.” And since there were constantly so many taboos, and every time a question was asked, “That cannot be spoken about here.” At first I thought that was what was going on. Then later I would say, “It hurts! It’s hurting me!” And when I started with actions and pushing him and trying to run away and so on, that’s when he started with, “I’m going to kill you. If you speak up and say something I’m going to kill you.” (Fontes, 1993, p. 32)

After years of abuse, Elena disclosed in a sex education class at school at age 15. The teacher was the first person she had met who seemed comfortable talking about sex. Elena’s disclosure did result in subsequent protection, perhaps because she managed to disclose in a public way. However, rather than being legally prosecuted, the father was sent to live with relatives in the mainland United States.

The values of *haya* (modesty) and *sharam* (shame/embarrassment) in Arab cultures (Gilligan & Akhtar, 2006) and *pudor* (shame, modesty) in Spanish silence both sex education and disclosures. A girl in India described being told she was “a dirty girl with a vivid imagination” who was lying when she told her mother that her neighbor had taken her into a park and “done something to her” (Gupta & Ailawadi, 2005, p. 180). One Puerto Rican girl, Yanira, tried to disclose to her mother that her uncle was sexually abusing her. Her mother slapped her across the face and said, “Where are you going to go if not to heaven? What if God catches you speaking—or even thinking! And what are you saying? If it occurs to you to say that your uncle touched you, watch out!” (Fontes, 1993, p. 32). In this way, the girl learned that speaking about sexual abuse was taboo. Her mother’s response was an enactment of the common Spanish phrase, *De eso no se habla* (“One doesn’t speak about that”). Yanira learned to suffer the abuse in silence, and her plea for help was ignored.

SEXUAL SCRIPTS

Culturally supported sexual scripts can make disclosures more difficult. Most cultures traditionally see sexual interaction as a male–female struggle in which he should always want it and she should try to avoid it, at least outside of marriage. Cáceres (2005) described how these ideas present themselves in Peru: “All ‘normal’ men but no ‘decent’ women willingly engage in heterosexual activity” (p. 127). This gender struggle model of sexuality can make situations where males prey on younger females seem normal. One psychotherapist described the gender struggle model of sexuality among traditional Puerto Rican families in stark terms:

They teach their children to have the most traditional attitudes; they educate them to be enemies. The girls have to keep their legs closed, because the boys are raised so that if the girls open them, they’re going to take advantage of it. . . . The education that they get is that if you expose yourself you’re going to suffer because [boys and men] cannot control themselves. (Fontes, 1992)

In a psychoeducational group for low-income Puerto Rican parents, when asked about differences in raising boys and girls the major difference stressed by participants was the need to educate girls from a young age to keep their legs closed, hide their bodies, and avoid arousing men. If a girl is abused in a culture that follows these gender battle sexual scripts, it may be seen as the girl’s fault for having tempted a man by dressing or acting in a certain way. Additionally, the girl’s caretakers may be faulted for having failed to adequately keep the girl safe (Cáceres, 2005). The boy or man in question is seen as having done what boys or men will do.

This view of sex as a gendered battlefield also makes it difficult for boys to disclose sexual abuse by women, since such a disclosure would seem to imply that the boy is less manly than he should be for not wanting the sexual act with the older female. A study documented the way boys in Mexico City reframed their discussions of sexual assault by older women to make themselves sound more powerful and active in the interaction (Marston, 2005). After describing the older women engaging in such assaultive and coercive behaviors as rubbing the boys’ legs, grabbing their genitals, exposing themselves, and taunting the boys as possibly gay for their lack of interest, the boys described acquiescing and then used language to make it seem as if they were “in control and enjoying the activity” (p. 290).

Sexual scripts can also make it difficult for boys to disclose sexual abuse by men, because such an admission requires “confessing” to having been victimized, which is a blow to their masculine image. In a variety of cultures, boys who have been abused sexually by men are suspected of being gay, which is a highly stigmatized identity for a boy to assume. This silencing of

male victims, based on cultural norms for masculinity, is one reason for significant underreporting of male victims (Cermak & Molidor, 1996). We need to examine cultural differences in male/female socialization to distinguish factors that may differentially impact boys and girls in any given community.

The gendered expectation that once they are aroused men cannot control their sexual impulses may lead to a discourse that explains and permits sexual assault. For instance, Cambodian young men explained their group sexual assaults of girls, called *bauk*, by referring to themselves as being “blindly stricken with passion” (Wilkinson, Bearup, & Soprach, 2005, p. 164). It is not hard to understand, then, that when girls are sexually assaulted they might feel that they had been in some way responsible for the abuse because they had provoked such a response in men. One South African girl described hiding her body even from family members: “When my father, my uncle, or my brother is there I don’t wear [tight trousers] because if they rape me, I can’t blame them” (Jewkes, Penn-Kekanna, Rose-Junius, 2005). If they cannot blame their male assailants, girls blame themselves and therefore do not disclose.

VIRGINITY

The emphasis on a girl’s virginity and the shame around “losing it” can create great barriers to disclosure for girls and may make it difficult for parents to seek professional help for their daughters’ abuse. As noted by Newton and Vandeven (in press), girls may be seen as less valuable as brides because of their abuse. When knowledge that a 12-year-old girl had been sexually assaulted became public in one Puerto Rican community in the United States, the girl learned quickly that she had been ruined: “All her life from then on they would tell her that she couldn’t wear white to her wedding because she was no longer a virgin” (Fontes, 1993, p. 31). Similarly, Yuksel (2000) described the importance of virginity among the majority Muslim population in Turkey:

The absence of virginity may mean that a young girl loses her chance for marriage. If the situation is known, she loses her prestige within the family [just] as the family loses it in their close neighborhood. . . . The first reaction of the nonoffending parent and other relatives is to take the child or young girl for an examination of her virginity, when they find out about the abuse. If the hymen is left intact, the sexual abuse cannot be proved, and this makes the denial easier for the family. (p. 157)

These kinds of formal and informal “virginity tests” are common in cultures throughout the world. Not only are they extremely inaccurate and subject to all kinds of pressures, they can also be traumatic for a child. The

touching of a girl's genitals performed by anyone other than a licensed medical provider for a legitimate medical reason is apt to be considered a sexual assault according to U.S. law and is also considered a violation of international human rights (Pollack, 2008). Nevertheless, this "hymen worship" (B. Mirabal, personal communication, June 2005) serves as a disincentive to disclosure and reporting.

Even where the sexual abuse did not involve penetration, rumors of sexual abuse might interfere with a girl's marriage prospects. The girl's value does not rest solely on her actual virginity but also on her "honor" or her reputation. The notion that girls are less valuable as brides if they are not virgins inhibits disclosure of sexual assaults in numerous countries throughout the world and in numerous ethnic communities in the United States. In some Arab communities, if a child is rumored to have been abused sexually, it may hurt the marriage prospects of all the child's siblings (Baker & Dwairy, 2003).

In some cultures, girls and women who have been sexually assaulted are seen as having disgraced the family and may be subjected to violent assault or murder by family members to cleanse the family name and restore honor. The prospect of such an assault naturally makes it harder for girls to disclose their victimization.

STATUS OF FEMALES

Where cultural norms value males over females, a girl's report of sexual abuse by a boy or man may be discounted. The literature is rife with these kinds of reports, as when a girl in India described disclosing to her father that her brother was sexually abusing her, only to be told that this report was a way for her to cover her "madness" and his son "was not capable of doing any such thing" (Gupta & Ailawadi, 2005, p. 180). A Chinese poet of the Jin dynasty is widely quoted as saying, "How sad it is to be a woman! Nothing on earth is held so cheap!" It is a huge step for a girl who is being victimized by a boy or man to challenge his authority by exposing the abuse.

Other culturally based gender expectations can also inhibit disclosure. For instance, Black women and girls are often expected to be able to bear whatever burden is placed on them unquestioningly and uncomplainingly. Wilson (1994) described these superhuman expectations in this way: "Black women are strong and can handle anything life throws at them—whether rape at the hands of white slave-owners; the trauma of being separated from their children in slavery; racism; violence against us within our communities; or sexual abuse" (p. 10).

Black girls and women may therefore feel that their abuse is not a legitimate cause of complaint. Additionally, they may be seen as "race traitors" if they exercise their right to a life free from violence by disclosing to authorities that they have suffered abuse by a Black boy or man (Wilson, 1994).

OBLIGATORY VIOLENCE

When the sexual abuse of a child is discovered, in some cultures men in the family will feel obligated to avenge this dishonor through perpetrating violence publicly against the alleged abuser (Fontes et al., 2001). This “obligatory violence” can tremendously wound a family, which then risks the family member being arrested for the violent revenge enacted. Although we do not know how many family members discuss this equation overtly, many seem to prefer to deny the abuse or keep secret the knowledge of it to prevent the retributive violence that would be required to avenge the family’s honor. Indeed, Franco (2006) and Fontes (1993) both found a tendency for mothers to advise their children to protect their fathers from knowledge of the abuse for fear of his possible angry and violent response.

HONOR, RESPECT, AND PATRIARCHY

Children in South Asian communities may be inhibited from disclosures and parents may hesitate to make formal reports because of the strong values of *izzat* (honor/respect) (Gilligan & Akhtar, 2006). This is similar to East Asian ideas of filial piety, which require honoring older male relatives. This value is also similar to the Latino concept of *respeto* (respect), in which children are expected to be respectful to elders, particularly to older male relatives (Comas-Díaz, 1995). In traditional Anglo-American families, the father is seen as dominant and as having both the responsibility and the entitlement to rule over his family (Schmidt, 1995). In each of these broad cultural areas, we are essentially seeing how patriarchy may be used to justify the sexual abuse of children by their fathers or father figures and also how it can inhibit disclosures.

OTHER CULTURAL BARRIERS TO DISCLOSING ABUSE

Girls in India gave the following reasons for not disclosing sexual abuse, starting with the most common: wanting to forget, fearing what people would think, self-blame, distrust, minimizing its importance, feeling guilty for experiencing pleasure, fearing being disbelieved, feeling she had been a willing participant, threats and bribes, and feeling confused or not knowing whom to tell (Gupta & Ailawadi, 2005). Clearly, many of these reasons may be related to the girls’ culture. In cultures throughout the world and in subcultures throughout the United States, cultural influences impact hesitancy to disclose abuse and inhibit children’s ability to speak openly about incidents (Fontes, 2008). A child’s refusal to disclose may even be conceptualized as an unfortunate side effect of a highly adaptive trait—that of protecting one’s community from hostile outsiders. Religious ideas also tie in closely with ethnicity and culture but affect broader groups. In the next section, we discuss examples of some religious ideas that may impact people beyond particular ethnic cultures.

Religious Values Influencing Disclosure

While no mainstream religion advocates the sexual abuse of children, a wide variety of religious norms and expectations may make disclosure of sexual abuse difficult. For instance, Catholic women and girls may be expected to suffer sexual abuse in silence, with the abuse seen as a cross that they simply have to bear. The relevant terms for this in Spanish are *aguantarse*, *resignarse*, and *sobreponerse*, meaning, respectively, enduring, resigning oneself, and overcoming adversity. These are values that would encourage a Latino child—particularly a girl—to put up with what she needs to, resign herself to her circumstances, and triumph despite the abuse rather than necessarily speaking out and changing the conditions of the abuse (Comas-Díaz, 1995). A related Christian saying that would promote resignation is, “God never sends us more than we can handle.” One Catholic survivor describes a priest telling her to go to confession and ask for forgiveness after she disclosed CSA by her brother (Kennedy, 2000).

Children with certain religious beliefs may pray for the abuse to stop and accept their abuse as “fate” if it continues (Kennedy, 2000). The Catholic mother of a sexual abuse victim stated, “God allows things to happen in our lives to shape our character, or to bring us to a closer relationship with Him. I can see areas in my life and my child’s life and the abuser’s life that I know God is leading, but the outcome is beyond what I can see at this point” (C. Plummer, unpublished clinical experience).

A belief in an all-powerful, infallible Father in heaven who has absolute authority over people may translate for a child into a belief that his or her earthly father or father figure has similar rights to do what he pleases (Kennedy, 2000). This can make resisting or disclosing sexual abuse extremely difficult. A Baptist minister was recently convicted for paddling a 12-year-old girl every week for a year and a half in response to her claims that her stepfather was sexually abusing her, claims that the minister and the girl’s mother did not believe at the time (Allen, 2009). The minister failed to report the case to child abuse authorities and—in his defense—claimed he was “over his head” in handling the allegations of sexual abuse. The girl’s stepfather was eventually charged with criminal sexual assault.

If sexual abuse is discovered to have affected a child from a charismatic Christian church, the child may be subject to a “deliverance ministry” in which procedures are undertaken to “cast out the devil” or the “evil spirits.” This can be a frightening procedure, in which children feel both psychologically and physically threatened. In one study, almost half of children subjected to this described the experience as harmful. They described the deliverance procedures (essentially exorcisms) as leading them to feel as if they had something evil within them and were indelibly tainted as a result of the abuse (Fouque, 1997, as cited in Kennedy, 2000).

A Buddhist may believe that abuse is Karmic retribution for a misdeed committed in a previous life, thereby stigmatizing victims and their families. In an article on rape in Taiwan, Luo (2000) wrote, "This belief system suggests that any negative life event, such as rape, is caused by the individual's karma from previous lives and that revenge (e.g., punishment of the rapist) should not be sought to avoid a karmic vicious cycle." In this way, victims and their families are encouraged not to proceed with prosecutions so that they can end the cycle of negative karma in this lifetime rather than extending it into the next lifetime.

Jewish religious proscriptions to honor one's parents can make children believe they should not fight off assaults or disclose. *Lashon Hara*, a prohibition against speaking ill of others, is also often referred to as the reason why abusers cannot be publicly named (Silberg & Dallam, 2009). However, the Jewish Talmudic legal tradition offers exemptions that allow rejection of parents when they have committed abusive acts against the child and justifications for speaking out against abusers (Dorff, 2003).

The Quran refers to Mohamed taking his final bride, Aisha, when she was six years old and consummating their marriage when she was nine years old (Admon, 2009). This has been used by some Muslim clerics to justify child brides and undoubtedly contributes to high rates of child marriage (usually of young girls to much older men) in Pakistan, Afghanistan, Saudi Arabia, and other Muslim nations. Child marriage is not only a violation of international human rights, but a girl who is pregnant before she is physiologically ready may die or suffer lifelong debilitating injuries when she tries to give birth. Professionals should not accept at face value this religiously based explanation of child marriage as a justification for child rape in Muslim families or communities.

The original founders of the Church of Jesus Christ of Latter Day Saints (LDS, or the Mormons), Brigham Young and Joseph Smith, promoted the taking of "plural" wives. Young and Smith each had dozens of wives, some as young as 14. Smith's wives included two sets of sisters who had been entrusted to his care when their parents died. In both cases, he married both sisters and incorporated their family fortunes as his own personal wealth (Smith, 2008). The mainstream LDS church has denounced polygamy since 1890, initially taking this stance as part of its efforts to attain statehood for its home base of Utah. However, people with LDS family backgrounds frequently claim a religious justification for polygamy, child rape, and incest, claims that the mainstream LDS church resoundingly rejects.

Often, cultural/religious values are used as a screen to oppress girls and women (Okin, 1999). On the other hand, recent immigrants may not be aware of expectations around the protection of girls in their new country and may need to be informed of these. If the adults and children in a group think the marriage of young girls to older men is desirable, certainly this would inhibit their motivation to report such marriages (or relationships) to

authorities. Professionals should also note the gulf between a ceremonial marriage, which occurs between an adult male and a young girl, and the sexual use of a girl without marriage. While both are illegal in the United States, sexual exploitation without marriage does not have any religious justification whatsoever. These examples, though by no means comprehensive, shed some light into how the intersection of ethnic culture and religious values may affect disclosures.

Reporting Costs that Vary by Ethnic Group

African American and Native American children are significantly overrepresented in the child protection system in the United States (Hill, 2006; Mederos & Woldegiorgis, 2003). The multiple contributing causes of this disproportionality include: disproportionate poverty, institutional racism, high rates of neighborhood crime and deterioration in some minority communities, pervasive joblessness, and impoverished access to protective formal and informal systems such as neighborhood networks and quality healthcare (Derezotes & Hill, 2008). Once Native American, Latino, and African-American children are removed from their home, interventions are more likely to be adversarial rather than supportive (e.g., a larger number of petitions to terminate parental rights and fewer referrals for mental health services) (Roberts, 2002). Black, Native American, and Latino children in foster care are apt to stay in care longer and are less likely than non-Latino White children to ever know another permanent home (Derezotes & Hill). The human toll is tremendous; these vulnerable children will sometimes languish for years in the foster care system or in institutions before they eventually “age out” of care, which places them at higher risk of homelessness, prostitution, and criminality (Derezotes & Hill). The disproportionate impact of the child welfare system in ethnic minority communities is one reason members of these communities may be hesitant to disclose abuse to authorities and prefer to handle the abuse themselves. The risk of family dissolution and the enforced orphaning of the children may just seem too great in these communities.

Notifying official systems of possible CSA involves “reporting costs” (Massat & Lundy, 1998). These include loss of privacy and family support and financial losses for many families. Some mothers have claimed that these costs, especially financial ones, are central to their postreport experience but not addressed by involved professionals (Plummer & Eastin, 2007). While the loss of privacy may be seen as a universal disincentive for calling authorities, other costs vary by social class, social power, immigration status, and culture. In one of our clinical cases, for example, an Ecuadoran girl in the United States told her mother about abuse by the mother’s boyfriend, who was a U.S. native. Appropriately, the mother immediately asked the boyfriend to move out. She then asked her immigration lawyer what to

do. The attorney grilled the daughter for hours about exactly what had happened, and they waited weeks before filing a report with child protective services. The girl refused to discuss the abuse ever again because she had found the attorney's interview so traumatic. This example demonstrates how immigration concerns might complicate disclosure and, combined with insensitive and untrained interviewing, result in the child never officially "disclosing."

Children often fear that their disclosure will cause problems for their family (Crisma, Bascelli, Paci, & Romito, 2004). Many children tell social workers that if they had it to do again, they would never disclose (Folman, 1998). A Mexican American survivor of CSA explains why she did not disclose her victimization to authorities:

Who were we going to go talk to about this? How many agencies do you know that welcome unauthorized Mexican immigrants with very little English fluency? And in our culture, you know, there's also this fear of being discriminated against, of being deported if you're unauthorized, of being taken out of your family because a white person thinks there's too many of us living together or something. Most people in this country don't understand Mexican culture and customs. And so yeah, there's a serious fear at the thought of sharing information outside the family. (Franco, 2006, p. 49)

In a study in Chile, shantytown residents described how when they were children, they kept silent about the sexual abuse they suffered because the generally miserable conditions under the Pinochet dictatorship led them to believe that their abuse was a trivial matter (Fontes, 1995a). Children in families who are struggling with other acute issues such as homelessness, poverty, illness, and unemployment may also choose to keep silent so as not to add to their parents' worries.

Members of oppressed groups face further stigmatization as a unique cost of reporting sexual abuse. In a book that included the advice of experts from eight U.S. minority cultures on treating CSA with people from their culture, every author described children's concerns that the reputation and position of their group would be jeopardized if knowledge of their sexual abuse became public (Fontes, 1995b). Telling an outsider is considered "washing one's dirty laundry in public." African Americans, for instance, may hesitate to discuss sexual abuse for fear that it "will be used in some damnable way to further exclude African Americans from the American mainstream (Abney & Priest, 1995, p. 11). Jews' hesitation to reveal problems to people from outside the culture is revealed in the Yiddish expression *shandeh fur die Goyim*, which roughly means a shameful situation that non-Jews might use as a weapon against Jews. In minority cultures, the act of sharing personal matters with people from outside the inner circle may be

seen as leading to unwanted and threatening attention that might jeopardize family and community integrity.

Families from cultures that rely on broad and extensive family networks may face losing all of their support system if an abuser within that network is exposed. This loss is especially egregious if the offender manages to rally the network in his defense. The loss extends beyond the economic, social, and emotional domains and can also include “in-kind” resources, such as losing the grandmother who babysits, the auntie who picks the children up from day care, or the brother-in-law who plows snow from the driveway. When the abuser supports a family economically, the loss of his or her income may entail homelessness for a low-income family. Additionally, the family’s health insurance is often tied to the abuser’s employment.

A family’s ruined reputation is a “reporting cost” that is too great for many families to bear. Families that are deeply connected to their communities or religious institutions may face being shunned if they let outsiders know about a child’s abuse. In an immigrant couple, an abuser may threaten his wife with ruining her reputation and that of her extended family in their community and in their country of origin if she presses charges against him or refuses to comply with his requests.

Structural Barriers to Disclosure

In addition to the cultural factors that can make it difficult for children to disclose, numerous societal and agency issues can also serve as barriers to disclosure. We think these are exceedingly important and have discussed how to change these at length elsewhere (see Fontes, 1993, 1995b, 2005, and 2008 for more information). These structural barriers include lack of linguistic competence during investigations and interventions, lack of documents in families’ native languages, unfair immigration laws, racism and other forms of discrimination, economic barriers that interfere with investigations and interventions, lack of adequate health insurance, overcrowded schools where teachers do not know their students well enough to detect abuse, and others. Both the structural changes and the individual and agency efforts discussed in this article are essential to help children from all cultures disclose when they are abused and stick by true disclosures in the face of pressures to recant.

Cultural Supports for Disclosure

We want to be careful not to give the impression that cultural factors, and particularly cultural factors affecting members of minority groups in the United States, are wholly negative. Indeed, just as cultural factors may make it difficult for children to disclose, cultural factors may also facilitate disclosures. Little research or even clinical literature addresses this. One area

that deserves particular note is the centrality of a strong mother–child relationship, which has been shown to lead not only to more disclosures and fewer recantations (Elliott & Briere, 1994; Lawson & Chaffin, 1992) but also can predict improved outcomes for the child victim after abuse (Deblinger, Stauffer, & Landsberg, 1994; Lipton, 1997). While an in-depth exploration of this topic is beyond the scope of this article, the importance of the maternal reaction to abuse allegations cannot be overemphasized and is largely shaped by the culture in which this relationship is embedded.

Factors that might protect children in a given culture from sexual abuse and facilitate disclosures include: intolerance of adult sexual practices with children, a high value placed on women and children, extended family supervision of children, men's direct involvement in raising children, close relationships between mothers and their children, strong social sanctions against abuse, views of children as nonsexual beings, support for children to speak up and make their needs known, socialization toward cooperative, mutually agreeable sexual activity, open discussions of sexuality, and both formal and informal resources that protect children. However, without further research in this area, experts disagree as to practices that might increase or decrease children's safety from abuse. For instance, some may believe separating children by gender protects girls, while others might label it a risk factor since it tends to depersonalize the other gender and makes interactions with them unfamiliar (Plummer & Njunguna, 2009).

REPORTING ABUSE TO AUTHORITIES: THE CULTURAL AND STRUCTURAL CONTEXT

Recognizing Sexual Abuse

People from different U.S. ethnic cultures may differ somewhat in how CSA is defined or understood, which would certainly affect their reporting behavior (Fontes, 1995b, 2005). While Lowe, Pavkov, Casanova, and Wetchler (2005) found no significant differences in how Blacks, Whites, or Hispanics living in the United States recognize sexual abuse nor their willingness to report most abuse, they did find some differences at the lowest levels of "severity," where the Black and Hispanic adults were somewhat more likely to recognize and claim willingness to report CSA than were the Whites.

One study found that African American and Latina women were more likely to describe sexual abuse in metaphoric terms such as "taking a child's innocence," while men in these cultures defined sexual abuse in terms of explicit sexual behaviors (Fontes et al., 2000, 2001). This same study found that while Black and Latino adults declared unhesitatingly that they would report sexual abuse by a stranger when they found out about it, when asked about reporting abuse committed by a loved one or a friend, they said they would handle it through unofficial means, by talking to the abuser and/or

the child victim, and keeping a closer eye on the child. We do not know how differences in definitions of sexual abuse or intentions around reporting might affect actual reporting behaviors in response to discoveries of abuse. However, since most abuse is committed by people known to a child, adults' hesitancy to report abuse committed by known parties is worrisome.

Handling Child Sexual Abuse through Informal Channels

Insensitive responses, victim blaming, slow legal processes, and the enforced separation of family members can make families from all ethnic groups reluctant to report sexual abuse once it is suspected, discovered, or disclosed within a family. One White woman who had reported her son for sexually abusing her younger daughter stated, "If I knew then what I know now, I never would have reported the abuse" (Plummer & Eastin, 2007). In immigrant and ethnic minority communities in the United States, the reasons for keeping abuse out of the public response system and finding informal means to stop the abuse are even more compelling (as discussed in the section on reporting costs).

Our work in diverse cultures in the United States as well as in other countries provides ample examples of alternative responses to sexual abuse that bypass official reporting and legal responses. These alternative responses have been operating, sometimes as the only response to abuse, for generations and have become the "normal" way to respond to CSA. The informal arrangements used to handle CSA range broadly, and not all are effective. For example, a strong matriarch (e.g., a mother or grandmother) may make a man leave his home if his abusiveness has been too egregious, even if reports are never made to the authorities. A family may press a nonfamily abuser to marry a victimized girl to restore her reputation and the family's honor (Luo, 2000; Zaman, 2005). In response to a child's abuse history, the child may be made to enter a convent or monastery, go to boarding school, or move to another geographic location to live with extended family members. In many cultures, the father of an abused girl may demand financial payment for the loss of her honor, which benefits the father but not the girl. A victim of CSA may also simply be told that he or she needs to learn strategies to cope. In one study, girls from a variety of immigrant backgrounds report being given instructions, or themselves choosing, cognitive reframing, personal determination, and separation from the perpetrator as ways to stay safe and continue with their lives without disclosing the abuse (Tyagi, 2001).

Disclosures and Culture in Professional Interviews

Interviewers in CSA cases are not nearly as diverse as the populations they serve (Child Welfare League of America, 2002). Whether working in child

protective services or forensic, medical, or other settings, professionals must make special efforts to become competent to interview, assess, and work with children and families from racial, cultural, and socioeconomic groups that differ from their own. Cultural competence is the ability to understand diverse people's worldview and their lives and adapt our work accordingly (Abney, 2001). To be effective, professionals who interview children about CSA need to conduct their interviews in culturally competent ways. Little has been written about how to do this (Fontes, 2005, 2009; Fontes & Faller, 2007). Being culturally competent is challenging in part because cultures are not static. How individuals and groups live their cultures changes regularly, in the larger context of societal change. A list of ethnic "differences" or suggestions soon becomes outdated and even counterproductive in the face of individuals and cultures that are forever developing and evolving.

Awareness of cultural *differences* is critical but can, unfortunately, lead to stereotyping by a professional who has obtained only basic information about people from a given culture. Guarding oneself from both operating without cultural awareness and stereotyping, professionals need to engage in an ongoing process of self-reflection regarding their responses and possible biases with each family with whom they work. Professionals' value system, theoretical practice orientation, class biases, and even presumed knowledge of another culture can influence their actions and ability to connect with a client. This self-awareness and habits of self-reflection have been called "cultural humility" (Tervalon & Murray-García, 1998). Even when professionals are unaware of these biases and assumptions, clients often perceive them (Perez Foster, 1999). Professionals would do well to remember that they (and not only their clients) are cultural beings who bring their habits of formality/informality, warmth/coolness, proximity/distance, nonverbal behavior, preferred phrasings, etc. into each professional encounter (Fontes, 2008). Research by Davis and Bottoms (2002) indicated that warmth and a supportive tone enable children to make more accurate disclosures and to correct the interviewer when the interviewer makes a mistake. Interviewers who are unaware of the biases they carry are apt to fail to connect with children, leading to reduced accuracy.

Ultimately, interviewers cannot force people to speak about topics they would rather not discuss. At best, interviewers control only their own side of the conversation. However, interviewers can facilitate disclosures by children of diverse cultures by making sure they are as respectful, open, nonjudgmental, and engaging as possible, and making sure people have an opportunity to be interviewed in their preferred language. In the following sections are suggestions for improving interviewing practice from a cultural perspective. Although these are written with forensic interviewers in mind, we hope they will also be useful for others who interview culturally diverse children and their families about suspected CSA.

Forensic Interviewer Questions and Suggestions

The following ideas, mostly posed as questions, give guidelines on important considerations that can enhance cultural competence in an interview. All are based on the authors' combined decades of clinical and forensic interviewing experience and are often bolstered as well by research. Where it exists, the empirical support is cited. In addition to tailoring interviews to the child's culture, of course interviewers also need to shape their work based on the interviewee's age and gender.

PLANNING FOR THE INTERVIEW

1. To what extent is the interview setting welcoming and/or comfortable for people from a variety of cultural backgrounds? Pay special attention to the background of the agency staff, the language of written materials, the magazines in the waiting rooms, and artwork on the walls.
2. To what degree have the involved professionals embraced cultural competency practices and cultural humility so that they can adapt their practices to the family's culture throughout the interview and intervention process?
3. What are the community(ies) of reference for this family? Each family may have obvious cultural connections or multiple communities, including social and religious networks that shape their cultural values and practices.
4. To what degree does that community influence the child and/or the family? This may depend on aspects of acculturation including how long the family has lived in this country or how much time they spend with members of their own ethnic community only. It is common to find acculturation differences within a single family.
5. How does the child's gender interact with cultural factors in this family? Since males and females face distinctive issues that may influence disclosure, examine these possible barriers prior to your interview.
6. What are identifiable barriers to disclosure in this cultural situation?
7. What are the likely fears of formal reports of CSA in this cultural and individual context?
8. What are the potential "reporting costs"? These can include social, financial, emotional, legal, and cultural losses incurred from not only the abuse but from the public acknowledgement of it and subsequent system interventions. Too often these costs are ignored and no help is given to remedy them. The result may well be a failure to disclose or report extant abuse, or a retraction.
9. What is needed to achieve linguistic competence? Children should be interviewed in their preferred language. Ideally, a trained bilingual interviewer would conduct the interview. The second and less-preferred option

is for a trained interviewer to enlist the help of a professional interpreter. Conducting an interview with an interpreter is not straightforward, and both the interpreter and the interviewer should give some thought as to how they will proceed (see Fontes, 2005 and 2008 for suggestions).

10. What are the pros and cons of ethnic matching between the interviewer and the child? The research on matching the ethnicity of the child with the ethnicity of the interviewer is both minimal and contradictory (Dunkerly & Dalenberg, 1999; Springman, Wherry, & Notaro, 2006). The question of ethnic matching needs to be explored individually. In some cases, a child will feel more comfortable with a person who is of the same race or ethnic group. In other situations, it can be difficult for children to disclose to people who are from the same small ethnic community, tribe, or clan, or to a person who reminds the child of the abuser. At the very least, the interviewer should be trained in child forensic interviewing and be knowledgeable about the cultural values and practices of the child's family. The need for linguistic competence is also central.
11. Is the interviewer aware of his or her professional ethical mandates? While forensic interviews are geared toward penalties and prosecutions, interviewers must recognize their ethical duty to place the child's well-being above the prosecution.

DURING THE INTERVIEW

1. Has the interviewer properly oriented the child to the interview? Specific information about the process and expectations of the interview will help the child feel comfortable. While important with all children, those from immigrant and minority cultural backgrounds may be even less familiar than other children with the setting and expectations and may need special guidance and reassurance.
2. Should the interviewer gently challenge habitual taboos? For example, interviewers may need to directly challenge assumptions that children will be silent with authorities, by saying something like, "In many situations, adults don't want children to speak a lot. Here, I really need to hear what you have to say."
3. Can the interviewer tolerate silence? Interviewers should allow some silence in an interview, without jumping in to ask a new question or rephrase an earlier one. Silence allows interviewees to gather their thoughts, find the right words, and summon the courage to speak.
4. Is the interviewer's manner warm and responsive? Interviewers should consider offering remarks that recognize the difficulty of the interview such as, "I know I'm asking a lot of questions." Interviewers can also demonstrate their caring with remarks such as, "How is it going for you?" or "You've been doing a fine job answering some really tough questions."

Warmth in an interviewer, contrary to concerns, does not lead to more false reports but rather to more accuracy in reporting (Davis & Bottoms, 2002).

5. Are the questions posed inclusive of diverse family structures? Interviewers need to ask questions in ways that acknowledge that families today come in many forms, including “single-parent families, re-constituted families, families with a mother and a series of male partners, families where grandparents play a major caretaking role, lesbian and gay families, informal adoptions, and structures where non-parental adults and sometimes older children have caretaking responsibilities” (Fontes & Faller, 2007, p. 168). Interviewers who ask questions in ways that assume the child lives within a stereotypical nuclear family may unwittingly confuse or insult children and therefore may be less likely to obtain complete and accurate information.

AFTER THE INTERVIEW

1. Did the interviewer or advocate link the child with sources of support after the interview? The child should be helped to identify a personal support system, both within and outside of the family, since the child may have feelings or recollections that emerge after the interview is completed or may be facing intense pressure to recant.
2. If the agency has an opportunity to continue working with the child and his or her family, what cultural values and strengths can be emphasized to facilitate sensitive interventions and safety for this child? How can nonabusive relatives be engaged in accepting, protecting, and rebuilding a relationship with their victimized child?

RECOMMENDATIONS: NEXT STEPS IN DEVELOPING CULTURAL COMPETENCE

Individual professionals must not only proactively learn more about cultures, dynamic changes in cultures, and familial differences in cultures; they must also learn how their own expectations, biases, countertransference, agency policies, and well intentioned interventions may regularly require alterations and updates as they work with clients from diverse cultural backgrounds. Clearly, employing more diverse professionals and assuring high quality community and agency training in cultural issues would also advance cultural competence. Supervision that routinely includes a cultural lens would also be helpful. In line with these efforts, critically examining and eliminating organizational and systemic barriers to disclosure of CSA would move us toward the goal of protecting all children, regardless of ethnicity.

CONCLUSION

Research about cultural influences on disclosures of CSA is new and limited. However, our research and clinical work lead us to the conclusion that culture stands prominently as a factor in *all* cases in which children are considering disclosing or being asked to disclose and not solely in cases in which children are from noticeable minority groups. No article, checklist, or set of principles will adequately address the range of unique individuals and families who present for child abuse interviews. Cultures are emerging, people are ever-changing, and learning about culture will always be an ongoing process that challenges interviewers to remain flexible to serve the diverse children and families affected by CSA.

NOTES

1. Discussions of culture can contribute to a failure to examine the great variety of people and experiences that exist within any particular ethnic group. In this article, we try mightily to avoid contributing to overgeneralizations and stereotyping while still illuminating general cultural issues. It is not always easy.

2. We are aware of the inadequacy of current terminology to describe various demographic groups. In this article, we use the term *Latino* to describe people of Latin American or Spanish descent who live in the United States and Canada. We use *White* to describe people of European descent. We use *African American* to describe people of African descent who grew up in the United States. Where authors of particular studies use the terms *Hispanic* or *Black*, we use the terms employed by the authors when we discuss their study. We realize that many diverse peoples are collapsed into these broad, overly general headings, in a process called "ethnic lumping," and we regret this (Fontes, 1995b).

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How Sexual Abuse Interviews Go Astray: Implications for Prosecutors, Police, and Child Protection Services

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This article argues that child sexual abuse interviews can go astray in two different ways: (a) improper interviewing has the potential to elicit false allegations from children, and (b) clumsy interviewing does not typically produce false allegations, but may have other negative consequences, particularly for child victims. The article clarifies the distinction between the two kinds of bad interviewing and suggests that clumsy interviewing is the more common of the two. The potential negative consequences of both improper and clumsy interviewing are described, along with implications for prosecutors, police, and child protection services. In the authors' opinion, improper interviewing can probably be eliminated rather easily, but clumsy interviewing may be considerably more resistant to change.

A district attorney noted for her vigorous prosecution of child abuse cases recently told us about a meeting with local child protection workers: "I gave them a summary of the Kelly Michaels decision and told them to read it. It was the first sexual abuse case overturned by an appeals court because of bad interviewing. I don't want anything like that happening here."

Like this prosecutor, most professionals involved with child protection now recognize that interviews in sexual abuse cases can sometimes go seriously astray. In several highly publicized cases like that of Kelly Michaels (Bruck & Ceci, 1995; Myers, 1996), prosecutions have foundered or convictions been overturned because of bad interviewing (see summaries in Ceci & Bruck, 1995; Nathan & Snedeker, 1995). The financial expense of these failed cases has been staggering, not to mention the high personal cost to nearly everyone involved, including prosecutors, caseworkers, children, and defendants.

As prosecutors, police, and child protection service (CPS) administrators come to grips with these problems, it may be helpful to distinguish between bad interviews that are improper and those that are simply clumsy. The distinction between improper and clumsy interviewing seems to be a useful one, as we have found over the years in conversations with CPS workers, police, lawyers, academics, and other professionals. In this article, we discuss the possible negative consequences of both improper and clumsy interviewing, along with implications for prosecutors, police, and CPS. In our experience, improper interviewing can probably be eliminated rather easily, but clumsy interviewing may be considerably more resistant to change.

IMPROPER INTERVIEWING

As we use the term, improper interviewing techniques consist mainly of things that interviewers should not do. Specifically, certain techniques have been widely criticized because they have the potential, either real or perceived, to elicit false allegations from children (Ceci & Bruck, 1993, 1995; Everson, 1997; Myers, 1996; Myers, Saywitz, & Goodman, 1996;

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Reed, 1996). Garven, Wood, Malpass, and Shaw (1998) have suggested that most of these techniques fall into four broad categories: suggestiveness, influence, reinforcement, and removal from direct experience (SIRR).

Suggestiveness. This occurs when the interviewer, rather than the child, introduces new information about the topic of concern into an interview. For example, "Did he touch you on the bottom?" would be a highly suggestive question in a sexual abuse interview if the child had not already mentioned inappropriate touching. Many studies have shown that interviewer suggestiveness can reduce the accuracy of children (Cassel, Roebbers, & Bjorklund, 1996; Poole & Lindsay, 1995; see summaries by Ceci & Bruck, 1993, 1995; Poole & Lamb, 1998). One or two mildly suggestive questions may be necessary to get the ball rolling with some children or focus their attention on a particular abuse-related topic (Home Office, 1992; Jones, 1992; Warren, Woodall, Hunt, & Perry, 1996; Wood, McClure, & Birch, 1996). However, suggestiveness can seriously compromise accuracy when the child is 4 years old or younger, or has been interviewed repeatedly (Ceci & Bruck, 1993, 1995; Garven et al., 1998; Myers et al., 1996).

Influence. This category encompasses various techniques that place undue social pressure on a child during an interview. These problematic techniques involve social influence or persuasion (Brewer & Crano, 1994; Cialdini, 1993) and include (a) inducing social conformity by telling the child what other people believe or have said about the topic of concern (Garven et al., 1998; Myers, 1996, p. 218), (b) eliciting obedience to authority by telling the child the interviewer's point of view, and (c) inducing stereotypes by describing an alleged perpetrator in negative terms to the child (Leichtman & Ceci, 1995).

Reinforcement. As has long been known, reinforcement in the form of tangible, promised, or implied punishment or reward can have a powerful influence on behavior (Ettinger, Crooks, & Stein, 1994). More specifically, recent research has shown that reinforcement can elicit false allegations of wrongdoing from children during interviews (Garven, Wood, & Malpass, in press; Garven et al., 1998). Several improper interviewing techniques constitute forms of reinforcement (see also Lamb, Sternberg, & Esplin, 1995; Myers, 1996, p. 218): (a) praising the child for making allegations; (b) implying that the child can demonstrate helpfulness or intelligence by making allegations; (c) criticizing the child's statements or suggesting that they are false, inaccurate, or otherwise inadequate; (d)

giving tangible rewards (e.g., stickers or food) to reward disclosure; (e) limiting the child's mobility (e.g., delaying a visit to the bathroom or return to home) until he or she has discussed issues of interest to the interviewer; (f) subjecting the child to physically or verbally stressful stimuli during the interview (e.g., calling the child a liar); and (g) repeating a question in a way that suggests the child's first answer was incorrect or otherwise unsatisfactory (Cassel et al., 1996; Poole & White, 1991, 1993; Siegal, Waters, & Dinwiddy, 1988).

Removal from direct experience. In forensic interviews with both adults and children, the witness is usually asked to give a direct description of what he or she has observed and experienced. However, some child interviews deviate from this direct format and instead take an oblique or indirect approach to information gathering. Problematic indirect interviewing techniques include (a) inviting the child to speculate about what might have happened, rather than to describe what the child actually observed; (b) encouraging the child to pretend or engage in imaginative play as part of the investigative interview; and (c) interviewing the child using puppets (but see Jones, 1992, p. 40).

Although the SIRR model of Garven et al. (1998) is not the final word on improper interviewing, it provides a helpful organizational framework. Next, we turn to the related but distinct issue of clumsy interviewing.

CLUMSY INTERVIEWING

In recent years, many clinical experts and researchers have described basic skills that should be displayed in a child sexual abuse interview (Home Office, 1992; Jones, 1992; Lamb, Sternberg, & Esplin, 1998; Poole & Lamb, 1998; Saywitz & Camparo, 1998; Steller & Boychuk, 1992; Warren et al., 1996; Wood et al., 1996; Yuille, Hunter, Joffe, & Zaparniuk, 1993). Skills commonly recommended in books and articles include the following:

1. Make the child feel physically and emotionally comfortable at the beginning of the interview.
2. Convey warmth and interest in the child, both through words and nonverbal cues such as posture, eye contact, and tone of voice.
3. Use simple vocabulary and short sentences, as appropriate to the child's age.
4. Ask open-ended questions in the early interview to encourage the child to give longer, fuller answers in his or her own words.
5. Introduce the topic of concern in as nonsuggestive a way as possible.

6. During the substantive part of the interview, encourage the child to describe what happened in his or her own words, starting at the beginning and continuing to the end.
7. Use open-ended questions as much as possible. If mildly suggestive questions are used to focus the child's attention on a particular topic, follow them up with open-ended questions.
8. Avoid interrupting the child's statement. Save specific questions about details until the later parts of the interview, when the child has finished describing what happened.
9. End the interview by thanking the child and describing what will happen after he or she leaves the interview room. Provide older children with an opportunity to ask questions.

Nearly all experts would agree that the skills listed here are highly desirable in child sexual abuse interviews. A clumsy interview is simply one in which many or all of these skills are missing. Clumsy child interviews seem to be common in police and child protection agencies (Warren et al., 1996; Wood et al., 1996). However, as will be discussed below, even the clumsiest interview is not necessarily improper or likely to elicit false allegations from a child.

EFFECTS OF BAD INTERVIEWING ON CHILDREN'S STATEMENTS

In the remainder of this article, improper and clumsy interviewing are treated as two distinct phenomena, with different effects and different remedies within the child protection and legal systems. In fact, the distinction between improper and clumsy is not absolute. For example, suggestive questioning can be both improper and clumsy. However, in our experience, the distinction between these two dimensions can be enlightening and helpful in practical settings.

Wherever possible, we base our discussion on published scientific evidence. Where such evidence is unavailable, however, we draw on our own impressions and experience, and on the reports of other professionals. First, we will discuss the effect of improper interviewing on children's statements in sexual abuse cases. Then, we will turn to the effects of clumsy interviewing.

By definition, improper interviewing techniques have the potential, either real or perceived, to lead children into making false allegations of wrongdoing. For example, the negative effects of suggestiveness, repetitive questioning, stereotype induction, and reinforcement have been well documented in experimental studies (for summaries, see Ceci & Bruck, 1993, 1995; Garven et al., 1998; Myers et al., 1996; Poole & Lamb, 1998; Reed, 1996).

Other improper techniques have not been studied experimentally, but can be evaluated in light of evidence from the clinic or the courtroom. For example, no study has conclusively demonstrated that children can be led into making false allegations of wrongdoing if an interviewer invites speculation (e.g., What do you think maybe happened?). However, there are several reasons to believe that this technique can lead to false statements from children. First, clinical observation indicates that the technique of inviting speculation can sometimes elicit false statements from children (Everson, 1997, pp. 142-143). Second, the legal system has long harbored doubts about the value of speculative statements. For example, lay witnesses are not generally allowed to speculate or offer opinions in court (Myers, 1992). Third, laboratory research indicates that if individuals are invited to imagine or describe events that did not happen, then false or distorted memories can be created (Ceci, Huffman, Smith, & Loftus, 1994; Hyman & Pentland, 1996). As may be seen, evidence from three separate domains of knowledge (clinical, legal, scientific) suggests that interviewers should avoid inviting children to speculate during sexual abuse interviews.

The effects of improper interviewing techniques have received widespread attention from researchers and clinical experts. Issues relevant to clumsy interviewing have also been studied, particularly in three areas. First, Goodman, Bottoms, Schwartz-Kenney, and Rudy (1991) and Carter, Bottoms, and Levine (1996) have examined the effects of social support in child interviews. Their research indicates that children tend to give more accurate statements when interviewed in a warm, supportive manner. These findings confirm recommendations by experts (e.g., Jones, 1992; Poole & Lamb, 1998; Warren et al., 1996; Wood et al., 1996) and underline the importance of rapport building in child interviews. A second relevant line of research has been pursued by Lamb, Sternberg, and their colleagues (Hershkowitz, Lamb, Sternberg, & Esplin, 1997; Lamb et al., 1996; Sternberg et al., 1996, 1997), who have examined the effects of open-ended versus focused questioning. These researchers have found that children in sexual abuse interviews give longer, more detailed responses to open-ended questions than to focused questions (Hershkowitz et al., 1997; Lamb et al., 1996; Sternberg et al., 1996). Furthermore, children make more detailed disclosures if the interviewer has used open-ended questions during the early, rapport-building phase of the sexual abuse interview (Sternberg et al., 1997). These findings support recommendations by experts that open-ended questions be used as much as possible in child interviews.

In a third area of research, several studies have documented that children's accuracy and credibility diminish when interviewers use words or sentences above the children's level of comprehension (Perry, McAuliff, Tam, & Claycomb, 1995; Saywitz, Jaenicke, & Camparo, 1990; Saywitz, Nathanson, & Snyder, 1993; see also discussion by Walker, 1994). These findings support the recommendations of experts that sexual abuse interviewers use language appropriate to the child's developmental level.

As research indicates, clumsy interviewing can affect the accuracy, detail, and quality of a child's disclosure of sexual abuse. Clinical anecdotes also suggest that skillfulness (or lack thereof) may sometimes affect the probability that a disclosure is made at all. For example, in one CPS case we observed, a novice caseworker had unsuccessfully attempted to interview a retarded 13-year-old girl and concluded that the girl "just won't talk." A more skillful interviewer was then called in. Using a blend of kindness, charm, and humor, the second interviewer quickly established rapport with the girl, who freely disclosed sexual abuse by her stepbrother.

Such anecdotes suggest that skillful rapport building may sometimes make the difference between disclosure and nondisclosure. Unfortunately, no published study has examined this issue. One unpublished study with a sample of 1,535 children (Julie Cantlon, personal communication, February 24, 1998) found a small but statistically significant difference in disclosure/report rates (range = 56% to 63%) to seven different interviewers in one agency. Perhaps specific interviewer qualities (e.g., warmth) or skills (e.g., rapport building) encourage disclosure in some cases. The effect may be rather small but merits future study.

OTHER EFFECTS OF BAD INTERVIEWING

As we have indicated, research has shown that improper and clumsy interviewing can negatively affect the accuracy or detail of children's statements regarding abuse. However, in our experience, the undesirable effects of bad interviewing can extend much further. First, we will enumerate possible negative consequences of improper interviewing that we have observed.

- Improper interviewing can sometimes cause innocent individuals to be falsely accused or convicted of crimes against children.
- If the child has not been abused but makes false allegations, then he or she may suffer serious and unnecessary stress by being separated from par-

ents or caretakers, or subjected to legal investigations and trials.

- Suggestive interviewing may have the counterproductive effect of lowering the child's credibility in the eyes of adults. For example, in the famous *McMartin* Preschool case, prosecutors failed to obtain any convictions. Jurors afterward stated that the children's credibility had been undermined by suggestive interviewing (Reinhold, 1990; Wilkerson & Rainey, 1990). A recent study by Tubb, Wood, and Hosch (1999) also indicates that adults may find a child's allegations of sexual abuse less convincing if the allegations were elicited by suggestive questioning.
- A true allegation of abuse may be contaminated by falsehood or inaccuracy (Everson, 1997). If an allegation of sexual abuse has been elicited by improper techniques, then the task of sorting out truth from falsehood becomes much more difficult, and the child's credibility may be compromised.
- Resources of child protective services, police, and the legal system may be drained by unsuccessful investigations and trials. It is sobering to reflect that considerable money and time have been expended on criminal prosecutions that ultimately failed or were overturned because of improper interviewing.
- If the limited resources of child protection and legal agencies are drained into unsuccessful or ill-founded cases, then less time and money will be available to help children in cases of genuine abuse.
- Finally, experience has shown that dubious cases involving improper interviewing are sometimes brought to public attention by the media or scholars. Such cases can fuel criticism of the child protection system and damage the reputation of investigators and prosecutors.

As may be seen, improper interviews can have a negative impact on child victims, criminal prosecutions, and the reputation of the child protection system itself. Contrary to what is sometimes suggested, improper interviewing techniques are a matter of concern for child protection administrators, police, and prosecutors, not just for alleged perpetrators and defense attorneys.

In our experience, the negative consequences of clumsy interviewing are not the same as those of improper interviewing. Specifically, if a child is interviewed in a clumsy manner and discloses abuse, then the disclosure will probably be less coherent, detailed, and convincing than it might have been otherwise. Several negative consequences can follow.

- If the child's statement is clumsy, unconvincing, or lacking in detail, then a caseworker or evaluator may be less inclined to judge the disclosure credible (see Faller, 1988).

- If the civil justice system is involved (e.g., in domestic court), judges and attorneys may treat the allegations with more skepticism.
- If the criminal justice system is involved, prosecutors may regard the child as a poor witness and be reluctant to accept the case. Even if the case is accepted for prosecution, a clumsy initial interview, with a piecemeal statement by the child, may become a liability rather than an asset.

Our own experience suggests that the child is probably the biggest loser when clumsy interviewing occurs. A skillful interview may elicit a strong, clear statement of abuse and mobilize powerful forces on a child's behalf. Conversely, a clumsy interview may elicit only a feeble statement and lessen the probability that the child protection or legal system will take strong action.

IMPLICATIONS FOR PROSECUTORS

Clearly, both improper and clumsy interviewing are undesirable. But what are the practical implications for professionals who work with abused children? We begin our recommendations by addressing prosecutors, then turn to police and CPS administrators.

First, over the past 10 years, several highly publicized prosecutions have failed or been overturned because of improper interviewing. Prosecutors who wish to avoid costly outcomes of this type should discourage improper interviewing practice within their own jurisdictions.

Second, prosecutors have an interest not only in curbing improper interviewing, but in promoting skillful interviewing. For example, the credibility of a child witness can be increased, and the prosecution's case strengthened, if the initial interview of the child is conducted by a highly skilled interviewer. Thus, the suggestions offered below for police and CPS workers should be of interest to prosecutors as well.

Third, when an interviewer is attacked in court by defense lawyers or experts, the distinction between clumsy and improper can be helpful for rehabilitating the credibility of the interviewer and the interview. As we have described, improper interviewing can increase the probability that a child will make false allegations. However, clumsy interviewing by itself does not usually have such an effect. Thus, if an interviewer is attacked for making errors during an interview, a critical question is whether those errors were improper (i.e., of the type that might lead to false allegations). If an interviewer's errors fall into the clumsy rather than the improper category, they should not be

construed as evidence that the child has been manipulated into making false allegations of abuse.

IMPLICATIONS FOR CPS AND POLICE

Eliminating Improper Interviewing

It has been our experience that CPS and police administrators who set out to eliminate improper interviewing within their agencies can often do so rather easily. A small amount of training, combined with minimal supervision of audiotaped or videotaped interviews, can keep the occurrence of improper interviews to a minimum.

Training. In our own training sessions, we have noted that most police and caseworkers can quickly be taught to recognize and avoid improper interviewing techniques. In fact, because such training takes less than 2 hours and is intrinsically interesting, it can be presented as an agency in-service, not just to interviewers. We have used the following format.

During the first 5 to 10 minutes, we introduce the topic of improper interviewing by discussing the highly publicized Kelly Michaels and McMartin Preschool cases of the mid-1980s. The interviews in both these cases were widely criticized and the prosecutions ultimately failed. We use these historical examples to illustrate the potential negative consequences of improper interviewing. Information about these cases is available from several scholarly and journalistic sources (Ceci & Bruck, 1995; Hicks, 1990; Nathan, 1991; Nathan & Snedeker, 1995; Rabinowitz, 1990; but see Faller, 1996; Manshel, 1990; Summit, 1994).

During the next part of the presentation, which lasts about 45 minutes, the various types of improper interviewing techniques are enumerated and described. The SIRR model provides a helpful way to organize this part of the presentation, particularly if participants are given a written outline. The techniques can be illustrated with examples from the trainer's own experience or from historical cases (e.g., see Ceci & Bruck, 1995; Garven et al., 1998). It can also be helpful to describe some of the more vivid studies on children's suggestibility, such as the Mousetrap, Sam Stone, and Manny Morales studies (see Ceci & Bruck, 1995, pp. 129-132, 218-222; Garven et al., 1998).

During the final part of the presentation, which usually lasts 30 to 45 minutes, two participants role-play extended excerpts from real interviews in which improper techniques were used. First, the two participants read the entire excerpt out loud from beginning to end, with one portraying the child and the other the interviewer. Then, they read the excerpt

again, but pausing so that members of the group can identify precisely which improper technique is being used at a particular spot in the interview. This part of the presentation is enjoyable because participants can actively take part in the exercise and put their new knowledge to use. Trainers may be able to obtain transcripts of improper interviews from the archives of their own agency (with identifying information removed), or by consulting Underwager and Wakefield (1990). Alternatively, the first author of the present article can provide excerpts suitable for training purposes.

Monitoring interviews. In our experience, the short presentation that we have just described is effective with the large majority of interviewers. However, a few interviewers may still use improper techniques even after being trained otherwise. Probably the most efficient way to identify such interviewers is to monitor interview tapes or transcripts. Obviously, supervisors cannot monitor all the interviews in their agency. Fortunately, we have the impression that there is often an identifiable pattern in such cases: Improper interviews tend to be conducted (a) by the least experienced interviewers, (b) with the youngest children (5 years and younger), and (c) in interviews that are unusually long for children of that age (i.e., more than 30 minutes). Thus, we suspect that supervisors can probably detect most cases of improper interviewing simply by monitoring those cases in which their newest workers have interviewed preschool children, and by keeping an eye out for unusually long interviews.

It should be remembered that most interviewers easily learn to recognize and avoid improper interviewing techniques. Thus, an interviewer who uses such techniques even after being trained otherwise is behaving in an unusual manner, with potentially serious consequences for the agency. In our experience, interviewers who behave in this way are unlikely to change, even when additional feedback is provided by supervisors. The safest course may be to arrange a transfer to less sensitive positions within the agency.

Videotaping or audiotaping interviews. The advantages and disadvantages of taping child sexual abuse interviews have been thoroughly reviewed elsewhere (Davies & Westcott, 1992; McGough, 1994; Myers, 1993). Thus, we will touch only briefly on two issues.

First, unless child interviews are routinely taped, we do not see how prosecutors, CPS, or police will be able to control improper and clumsy interviewing in their jurisdictions. Alternative approaches, such as intensive supervision of interviews through one-way mirrors, are probably not practical or economically feasible in most settings. For obvious reasons, inter-

viewers do not usually recognize the problems with their own interviewing style or report them to supervisors. Thus, taping may be an essential quality control mechanism for supervisors who wish to detect bad interviewing and provide feedback to their workers, or for prosecutors who wish to monitor the actions of frontline workers.

Second, opponents of taping have sometimes argued that defense attorneys will use tapes in court to attack the credibility of child interviewers. However, the historical record shows that such attacks have generally been successful only when interviewing was improper (e.g., the Kelly Michaels case), not when it was simply clumsy. Unless improper interviewing techniques have been used, taping is unlikely to create serious problems for a sexual abuse prosecution.

Eliminating Clumsy Interviewing

In our experience, improper interviewing can be eliminated rather easily by 2-hour in-service presentations and judicious monitoring of interviews. By contrast, clumsy interviewing may be much more difficult to eliminate. For example, in one child protection agency where supervisors had provided training and encouraged good interviewing practice, we found that only about 5% of interviews were clearly improper, whereas 50% to 75% were still clearly clumsy. Although improper interviewing has received the most attention from scholars and journalists, clumsy interviewing is probably much more common (Warren et al., 1996; Wood et al., 1996). And as we have argued above, the child victim is the most likely loser.

At the present time in the United States, the training of police and CPS child interviewers usually seems to take one of three forms, all problematic. First, a substantial number of interviewers are given little more than informal on-the-job training. After receiving brief verbal instructions from a coworker and observing one or two interviews, new workers may start conducting interviews themselves. Such training tends to be incomplete and out of date. Furthermore, the more experienced interviewer who serves as a model may have serious deficits in skill and knowledge.

Second, many interviewers receive brief (i.e., 6 hours or less) formal training, often as part of a more general orientation program. For example, we are acquainted with one police department where all new members receive 1 day of training regarding child abuse, including 2 hours on interviewing. The difficulty, of course, is that 2 hours is much too short a time to learn and practice the skills required for child interviewing.

Third, some jurisdictions provide more extensive interviewer training, in workshops that last 2 or 3 full days. These workshops may be given by trainers within the agency, or by prominent outside experts who are brought in under special contract. Such workshops tend to be more up-to-date and thorough than the other forms of training we have discussed, and typically involve extensive role-playing of relevant skills. However, research indicates that, by themselves, workshops of this type may not be very effective at teaching new interviewing skills (Aldridge, 1992, pp. 235-238; Memon, Bull, & Smith, 1995; Memon, Holley, Milne, Koehnken, & Bull, 1994; Stevenson, Leung, & Cheung, 1992). Interviewers may go home from workshops believing that they have learned new skills, but then continue to conduct interviews in the same way as they did before. As we will discuss below, there may be ways to encourage interviewers to transfer the skills they have learned from workshops.

The sad fact is that there is presently no empirically proven, economically practical method for turning the average police detective or CPS caseworker into a skillful child interviewer. This does not mean that current methods are totally ineffective or that no better approach will ever be found. In fact, the remainder of this article describes some strategies that seem promising. Some of the strategies are incompatible with each other, whereas others can be combined into a single approach. CPS and police supervisors can decide which ideas, if any, are appropriate for their own agency (for further ideas and suggestions, see Poole & Lamb, 1998; Wood et al., 1996).

Internships for interviewers. Mental health professionals learn most clinical skills in two stages. First, formal classroom instruction is provided: The student learns through lectures, assigned reading, and elementary practice of the relevant skills. Second, an internship experience is provided: The student practices the skills in a real-world setting, with close supervision and feedback from a qualified professional.

At present, it appears that very few child interviewers have been trained using this two-stage process. The 2- or 3-day workshops described above provide something similar to formal classroom instruction. However, once caseworkers or police have completed a workshop, there is often no internship to monitor their performance and provide feedback. As we have indicated, such workshop training may be insufficient by itself.

The problem might be solved, at least in part, if interviewers went through a simple internship after completing workshop training. For example, they might be asked to submit tapes or transcripts of their

first 10 interviews to a supervisor or other qualified expert, who would provide brief written or verbal feedback. Of course, the success of this approach would depend on the knowledge level and conscientiousness of the supervisor. However, even if feedback consisted of only two comments per interview, we suspect that many interviewers would greatly benefit from this internship experience. In addition, this approach would allow the early identification of interviewers who are poorly suited to the job.

Interviewing specialists. In some police and CPS agencies, the detective or worker in charge of a case does not usually interview the child, but instead turns that job over to a specialist who is supposed to be especially well-trained and proficient at child interviewing. Similarly, in many communities around the United States, suspected child victims are taken to a safe house or child advocacy center to be questioned by an interviewing specialist.

In our experience, such interviewing specialists are not always as skillful or well informed as might be hoped. Nevertheless, the idea of designating certain workers as specialists and letting them conduct all or most of the interviews in an agency seems to have considerable merit. Many CPS agencies have high worker turnover. In addition, both CPS and police agencies lack adequate resources to provide every investigator with interview training. Even if available, such training may be ineffective. In light of these problems, perhaps the most effective and economical approach is to select specialists to handle the interviewing for all cases within the CPS or police agency. Of course, if such a system is to work, specialists must be well trained, with knowledge and skills that are truly above average and up to date.

Formal university training. Child sexual abuse investigation did not become widely regarded as an important professional skill until the 1980s. Perhaps because the field is relatively new, it still does not receive much attention in most university training programs for social workers, psychologists, and police. Instead, child protection and police agencies have had the responsibility of providing training themselves.

In the future, however, this situation may change. For example, perhaps the day is not far off when most social work and criminal justice programs offer undergraduate or graduate courses on "Child Abuse: Background Information and Investigation" or "Child and Adult Interviewing." Programs offering such courses could simultaneously provide their students with valuable skills and lessen the burden of

training for law enforcement and social service agencies.

Structured interviews. Recently, the interesting suggestion has been made that police and caseworkers might use structured interviews to question children in abuse cases (Sternberg et al., 1997). In a structured approach, the interviewer follows a narrowly defined format or script. For example, Sternberg and her colleagues (1997, pp. 1145-1146) have recently published a structured approach that specifies the precise questions a child should be asked during rapport building at the beginning of an interview.

The idea of structured interviews is actually much more workable and attractive than might appear at first glance. First, similar structured approaches have been used very successfully in mental health treatment settings over the past twenty years. For example, the Structured Clinical Interview for the *DSM-III-R* is now widely accepted as a tool for diagnosing psychiatric disorders (Rogers, 1995; Spitzer, Williams, Gibbon, & First, 1990). Similarly, several manualized treatments for psychological disorders have achieved notable success (Barlow & Cerny, 1988; DeRubeis & Crits-Christoph, 1998; Kazdin & Weisz, 1998).

As a second attraction, training for structured approaches is usually simpler than for other approaches. A third attraction is that structured interviews provide a standardized cookbook approach to interviewing, and so leave less room for the mistakes and idiosyncracies of individual interviewers. In a forensic setting, an interviewer would be largely immune to criticism if he or she had used a well-accepted structured interview format.

At present, structured child forensic interviews are still in the formative stage (see Lamb et al., 1998, p. 817; Poole & Lamb, 1998). Once developed, present versions will still need to be tested and revised. However, well-designed structured interviews will gradually become available over the next 5 years, and may prove highly useful to some police and child protection agencies.

Models of good interviewing. Not long ago, a CPS trainer asked us for examples of skillful child interviewing. After a long search, we could locate only one published interview of high quality (Steller & Boychuk, 1992, pp. 57-61). Currently, there are many more published examples of bad interviews (e.g., Ceci & Bruck, 1995; Underwager & Wakefield, 1990) than good ones. In the future, we hope that numerous examples of good interviewing will be published, with a variety of children from different ages and back-

grounds. Such role models would be of great use in training CPS and police interviewers.

Personnel selection. The discussion thus far has focused on improved methods for training child interviewers. In closing, we would like to turn to an equally important but generally neglected subject, the criteria for selecting child interviewers. In both police and CPS settings, we have sometimes encountered interviewers who appear to have little natural aptitude for their job, lacking the warmth, flexibility, and liking for children that are required for successful interviewing. Below we list and briefly discuss the qualities that we think are most important in child interviewers. We hope that CPS and police supervisors will keep these qualities in mind when selecting child interviewers.

- Personal warmth, friendliness, and tact. The ability to establish and maintain rapport, even under difficult circumstances, may be the single most important quality in a sexual abuse interviewer. Individuals who are irritable, unexpressive, or awkward in social interactions are not well suited to the job.
- Demonstrated ability to work with children. A surprisingly large number of interviewers have no experience working with children, and lack basic skills for managing or talking with them. Interviewers are preferable who have previous experience in child care or teaching.
- Previous formal training in counseling or interviewing. Many skills required for interviewing are the same as those required for counseling. In our experience, workers who have already taken basic counseling courses have a big head start when learning to interview children.
- Ability to change in response to feedback. Workers who disregard feedback or respond defensively are unlikely to respond well to the intensive training required for good interviewers.
- A master's degree or above-average academic performance as an undergraduate. As we have indicated, child interviewing is a complex field in a process of rapid development. Individuals who are bright and well educated will be better prepared to understand new developments and adapt to them.

In conclusion, it is important to remember that the field of child sexual abuse investigation and interviewing is very new, so that professional knowledge and institutions are still growing and changing. The present article reflects current realities and offers suggestions for the next few years. However, new information and needs are sure to appear before long. The most appropriate attitude for prosecutors, police, and CPS administrators is one of flexibility and openness.

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Children's needs during disclosures of abuse

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Abstract

A Narrative Literature Review was conducted providing a comprehensive overview of children's barriers to disclose during investigations of child abuse. Patterns in the literature were categorized as themes and include: rapport and relationship with the interviewer, feeling in control and prepared, communication, physical abilities, mental health, environment, family dynamics, culture and individual uniqueness. Using a combination of a critical analyses approach and drawing from personal background experiences and knowledge in working with children during disclosures, the themes are expanded upon as a discussion that explores what children may therapeutically need during their disclosures of abuse within the forensic interview. Some practice implications are incorporated with the intent to generate further thinking about addressing children's needs during investigations of child abuse. Working with multidisciplinary teams in Child and Youth Advocacy Centres is discussed and may be a resource for understanding children's needs during disclosures of abuse.

Keywords Children · Youth · Child abuse · Disclosures · Child abuse investigations

Introduction

Child abuse, also known as maltreatment, is common (World Health Organization 2020a, b). Child maltreatment is a global problem with serious life-long consequences and devastating impacts on all its victims, their families and society as a whole. In addition to the physical, social and psychological consequences of child maltreatment, the economical impacts from "hospitalization, mental health treatment, child welfare, and longer-term health [issues]" are tremendous (World Health Organization 2020a, b, p. 3). Most countries have policies responding to suspected cases of child abuse (ISPCAN 2008); these most often include law enforcement investigating the case and conducting child forensic interviews to help determine what occurred (Newlin et al. 2015). A child's disclosure of abuse during the forensic

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interview can help substantiate the case, as well as heighten the ability for professionals to apply protective and healing interventions. However, literature demonstrates several factors that create barriers for children to disclose their experience(s) of abuse to professionals. Therefore, it is crucial for professionals involved in responding to child abuse to understand what children need and how to address their needs during their disclosures. The aim of this paper is to understand children's therapeutic needs during disclosures of physical and sexual abuse within forensic interviews; specifically for investigations in Canada. However, the insight this paper offers into children's needs during disclosures of abuse may be useful for professionals who work on cases of child maltreatment and are outside of Canada as well. The terms *abuse* and *maltreatment* are used interchangeably. The term *child(ren)* is used, rather than using both the terms *child(ren)* and *youth*, simply for the ease of reading. Respectfully, *child(ren)* refers to anyone under the age of 19. Multidisciplinary teams (MDTs) and Child and Youth Advocacy Centres (CYAC, sometimes referred to as Child Advocacy Centre, CAC) are discussed throughout this paper.

Definition and prevalence

Child physical and sexual abuse are common worldwide (World Health Organization 2020a, b). Across all countries, the most common acts of child abuse involve physical abuse by parents or caregivers and sexual abuse defined as “incest, sexual touching or pornography” (International Society for Prevention of Child Abuse and Neglect [ISPCAN] 2008, p. 17). It is estimated that globally, nearly one quarter of children experience physical abuse and close to 20% of girls and 8% of boys experience sexual abuse (World Health Organization 2017). Most cases of child maltreatment occur when children are in a position of dependence on the person who is abusing them, which often makes maltreatment a hidden issue. These factors make it difficult to obtain a complete picture for the prevalence of child abuse in Canada (Department of Justice Canada 2002). Reported cases indicate that just over 30% of all Canadians aged 15 and older have experienced maltreatment during childhood, and that at least 40% of Indigenous people experienced childhood physical and/or sexual abuse (Afifi et al. 2014).

The impacts of child abuse

The emotional effects of child abuse stretch far beyond the victim's family, friends and communities, and its financial consequences are massive—in Canada, the cost is billions of dollars each year (deBoer, Rothwell, and Lee 2013; Statistics Canada 2017). Child maltreatment can deliver a life sentence of destruction for its victims (Public Health Agency of Canada 2008); children's physical, emotional and social development become jeopardized as short- and long-term consequences (World Health Organization 2017). Studies such as the Adverse Childhood Experiences Study (ACE) have demonstrated an association between such childhood experiences and significant health and social problems across the lifespan (Felitti et al. 2019). The severe stress caused by child maltreatment is associated with a disruption in

early brain development, and this can greatly impair further on-going development (World Health Organization 2020a, b). Consequently, maltreated children are at an increased risk for various behavioural, physical and mental health issues such as, depression, anxiety, post-traumatic stress, adolescent delinquency, obesity, drug and alcohol use, perpetrating or being a victim of violence, and other clinically significant mental health problems (Wolfe et al. 2001; World Health Organization 2020a, b). These behavioural and mental health consequences can then lead to further health detriments such as “heart disease, cancer, suicide and sexually transmitted infections” (World Health Organization 2020a, b, p. 3). Experiencing violence in childhood increases the likelihood of not graduating from school by 13% (World Health Organization 2020a, b). Children who suffer from child abuse are 41.2 times more likely to have attachment problems, three and a half times more likely to have poor emotional functioning and almost two and a half times more likely to face overall low life satisfaction (World Health Organization 2017). There is a clear link between children who have experienced child abuse and homelessness. Over the course of a year, the number of young people in Canada who become homeless and live in poverty is at least 40,000 (Homeless Hub 2021). In Canada, the majority of youth who are homeless reported that they experienced childhood trauma and abuse; therefore, most chose to leave an unsafe, abusive or neglectful situation (Homeless Hub 2017). Many experienced mental health concerns where their homeless situation was amplified by “slipping through the cracks” in the child protection, health and mental health systems (p. 4). Clearly, the trauma of child abuse is significant and can lead to negative consequences. Suspected cases require a thorough response so that protective and supportive measures can be implemented as early as possible and mitigate the possibilities for these unsettling outcomes.

Investigating child abuse

In May 2016, World Health Organization endorsed a first ever global plan of action which committed to supporting countries and partners to implement evidence-based prevention and response strategies to cases of child maltreatment (World Health Organization 2021). This plan identified several strategies that have shown success in reducing violence against children such as, the implementation and enforcement of laws and strengthening responses and support services (World Health Organization 2021). Most policies worldwide will include criminal penalties for abusing a child and the provisions for removing a child in order to protect him/her from further abuse (ISPCAN 2008). In Canada, child abuse is identified as a health issue with child welfare and criminal justice implications (Government of Canada 2017). Every province requires mandatory reporting of all forms of known or suspected child abuse. For instance, under British Columbia’s *Child, Family and Community Service Act* (1996/2017), anyone who has received a disclosure of abuse from anyone under the age of 19, or has reason to believe that a child has been or is likely to be abused, must report the abuse.

The Criminal Code of Canada (1985/2017) requires law enforcement investigations for all cases of suspected child abuse. Investigation can determine whether a

child has been harmed; and if so, to justify protection and medical strategies, discover what short- and long-term support the child may need, identify a potential offender and collect evidence for court. Conducting a forensic interview with the child is most commonly at the beginning of an investigation and can be the most significant intervention for gaining accurate information when abuse is suspected (Newlin et al. 2015). Further assessment can also occur within the forensic interview to better understand the safety of the child's living situation and identify the need for medical treatment and/or psychological care (Government of Canada 2018a, b, c, d). Even though there is no one standardized practice, forensic interviewers need to be well trained (Newlin et al. 2015). Throughout the years of research and practice, greater insight in how to elicit quality evidence from child witnesses during forensic interviewing has been gained (Powell 2013; Price and Roberts 2011). The development of trauma-informed practices has helped professionals who work with individuals who have experienced trauma, as with those who have experienced child abuse (Urquhart, Jasiura, TIP Project Team, and TIP Advisory Committee 2013). Increased knowledge regarding abuse trauma and system-induced trauma has resulted in the development of better responses in child abuse investigations such as those in CYACs that conduct investigations in a child-friendly building and use a multidisciplinary and wraparound service approach (Department of Justice Canada, 2013; Shaffer et al. 2018). The MDTs in child abuse investigations began in the 1980s to increase communication and information sharing among investigative agencies (Department of Justice Canada 2013; Young and Nelson-Gardell 2018). More studies are understanding factors that increase the prevalence for sexual abuse disclosures in forensic interviews such as the child's age and gender (Azzopardi et al. 2019; Lippert et al. 2009).

Informal disclosures

Children who have been abused often have difficulties telling this to another person. Particularly in cases of sexual abuse; many children never do share this information (Townsend 2016). When a child does disclose, it is important to differentiate the context in how it occurred because the situation for the child will be very different (Anderson 2016). McElvaney et al. (2012) noted Jones' (2000) language for identifying two different types of disclosures. The first type is the informal disclosure where the child tells about the abuse to someone in their life. McElvaney et al. (2012) discussed controversial studies regarding who the most common receivers of informal disclosures are. They identified that recipients are generally those that the young person trusts and is close to such as, a parent, friend, sibling or a counsellor. There are many reasons why a person who received an informal disclosure of abuse may not report it. These circumstances mostly relate to people's own situation, feelings, beliefs or their level of knowledge about child abuse (Government of Canada 2019).

Literature continually demonstrates how informal disclosures can be frequently delayed. It appears that making a disclosure often resembles an emotional and developmental process that involves both an unconscious and conscious contemplative undertaking where children may weigh the pros and cons in revealing their truth

(Alaggia et al. 2019; McElvaney, 2008; McElvaney, Green, Hogan 2012). For many children and youth, “the benefits of telling need to outweigh the costs of telling” (Brennan and McElvaney 2020, p. 107). There are many factors why a delay in disclosure or even never telling about the abuse, are common. Issues such as shame, self-blame and fear are common factors that are continual barriers for children to informally disclose abuse (Alaggia et al. 2019; Allnock and Miller 2013). There is a lot of literature that repeatedly tells us that children need help in revealing the abuse that happened to them (Brennan and McElvaney 2020; Goodman-Brown et al. 2003; McElvaney et al. 2012). Some suggestions were for more effort to be placed on public awareness, education and other ways in which society can encourage children to talk about child abuse (Leclerc and Wortley 2015; Paine and Hansen 2002). Brennan and McElvaney (2020) concur that all children need to have educational opportunities about sexual behaviours to help them understand “what is okay and what is not okay” (p. 111). However, these authors placed emphasis on the emotional needs of children when making disclosures. They indicated how children psychologically need to tell, but they also need to have the right opportunity to tell. Children who have experienced abuse go through a process of first “recognizing the behaviour as abusive...[then experience] a build-up of psychological distress that overwhelms the child’s own resources in coping with this distress” (Brennan and McElvaney 2020, pg. 101). McElvaney et al (2012) talked about a *pressure cooker effect* for why an informal disclosure may occur. Their analogy implies that children experience an inner turmoil and need to tell about the abuse; the overwhelming mix of emotions causes an immense build-up of stress. Brennan and McElvaney (2020) expressed how children need adults to respond to them appropriately and adequately by intervening, noticing and addressing their distress, and then asking them the right questions that will facilitate their disclosure.

There are several ways that an informal disclosure can occur. *Discovery* is when another individual recognizes the signs and symptoms of abuse (such as signs of injury or trauma) and reports it (Government of Canada 2018a, b, c, d). *Accidental* is when the child is not completely ready to tell but the disclosure ‘slips out’ (Government of Canada 2018a, b, c, d). When the child actually tells someone about the abuse, this would be identified as *on purpose* (Government of Canada 2018a, b, c, d), and these types of disclosures can occur during a forensic interview as well.

Formal disclosures

A formal disclosure is when a child tells about their abusive situation to a professional during a forensic interview. Young victims often tend to be the only eyewitness to the abuse and the most accurate information, most often, is a child’s formal disclosure given during the forensic interview (Alonzo-Proulx and Cyr 2016; Lyon et al. 2012). If a child does not formally disclose during the forensic interview, it can potentially limit the ability for professionals to protect or provide healing interventions and unfortunately, may result to longer or repeated abuse. A forensic interview can be quite intimidating for the child as it usually places him/her in an unfamiliar situation with an unknown professional (Anderson 2016). Some children identify how a disclosure during a forensic interview may have serious consequences for

them (Anderson 2016). Azzopardi et al. (2019) examined the prevalence of sexual abuse disclosures in forensic interviews with children under 18 years for example. These authors concluded that more than one third of the children do not disclose during a forensic interview and that there are several issues that may have influenced the disclosure. Numerous factors can interfere with children's effective disclosure of abuse during the forensic interview (Fontes and Plummer 2010). It is important to have an understanding of these factors. Such knowledge has not only allowed interviewing strategies to evolve, but it may further our insight to understanding children's therapeutic needs during their disclosures of abuse.

Methodology

Purpose

The purpose of the paper was to explore literature regarding children's barriers to disclose during investigations of child abuse within the Canadian child welfare system in order to explore the question: *What are children's therapeutic needs during disclosures of physical and sexual abuse within forensic interviews?*

Objective

The objective was to conduct a Narrative Literature Review and provide a comprehensive overview of children's barriers to disclose during investigations of child abuse to reveal what they need during interviews.

Method

A review of the literature was conducted to identify children's barriers to disclose during investigations of child abuse. The aim was to look for factors that would create challenges for children during disclosures of abuse within the forensic interview. The next step was to look for patterns regarding the challenges and categorize these *findings* into themes. Using a combination of a critical analyses approach and drawing from my background experiences and knowledge in working with children during disclosures, the themes were expanded upon into a *discussion* to explore what children may therapeutically need during their disclosures of abuse during the forensic interview. Some *practice implications* were incorporated with the intent to generate further thinking about addressing children's needs during investigations of child abuse.

The initial search was performed through Google Scholar and British Columbia (UBC) Online Library. The process followed a method of investigating literature through English language, published, peer-reviewed reviews, empirical studies, books, research papers or government documents regarding child abuse and factors impacting disclosures during the forensic interview. Open sources relevant to the area of study were included in the review process. The majority of the literature was published between 2012 and 2022. However, some sources reviewed were published between 1998 and 2011 due to the current relevance that they demonstrated

regarding children's needs during disclosures of abuse. As well, it was interesting to note how some of the issues to disclose have been continuous issues throughout history. The search strategy involved utilizing various search strings such as: (child*) AND (youth) AND maltreatment/abuse AND (investigation*) AND (disclosure*) AND (barriers). Generally, if the title, abstract and keywords demonstrated the words in the search strings, the literature was reviewed. Some of these sources led to additional literature sources by exploring some of their citations/references; these were also reviewed for relevance. Literature was deemed relevant if it examined or discussed a variety of children's experiences during the forensic interview that created challenges for them. This included literature that explained children's feelings or factors that demonstrated to have an influence on their behaviour and ability to disclose. Such literature was believed to meet the objective of this paper. Literature that did not discuss issues of disclosures in cases of child physical and/or sexual abuse/maltreatment or demonstrated factors that would impact disclosures, the literature was extracted. Literature that was unable to be fully accessed by author could not be included.

Findings from the literature

The combined literature demonstrated common influencing factors during children's disclosures of abuse that are critical to understand. These factors need to be effectively addressed within the practice of forensic interviewing. Following are the nine factors:

Rapport and relationship

Literature spoke to the importance of comfort between the interviewer and the child, in enabling them to talk about their abuse. O'Donohue and Fanetti (2016) expressed how the ability to quickly build effective rapport with children is the most crucial interviewer skill. They stated that when children feel nervous, frightened or intimidated, they will more likely "shut down" and "refuse to talk" (p. 185). Rapport is needed for the child to feel supported, empowered and encouraged in the relationship to speak up when they do not understand a question, or to say if they do not know the answer (Kebbell et al. 2006; Lyon et al. 2012). Allnock and Miller's (2013) study demonstrated that the majority of youth interviewed regarding their cases of abuse identified a need for a better relationship with the interviewer; overall, they found disclosing their abuse to the police an uneasy and unpleasant process. The UK, National Police Chiefs Council conducted an informative survey that demonstrated how young people felt anxious and intimidated when they saw law enforcement and that they did not want any contact with them unless "it was through the right channel and with the right content" (Griggs 2017, p. 1). Even though the study focussed on children in the UK and seeing police in general, it provides great insight into how a child may be feeling going into a forensic interview.

Children need interviewers who demonstrate patience, calmness, sensitivity, warmth and genuineness to build a rapport (Themeli and Panagiotaki 2014). A study that examined forensic child interviewers in Sweden demonstrated how common strategies to build rapport involved showing interest and deep listening, talking with the child about her/his interests and to start building rapport in the waiting room to enhance the building of trust and comfort early and prior to the interview (Magnusson et al. 2020). Wood and Garven (2000) discussed a study in their review that suggested how a proficient rapport between interviewer and child may sometimes make the difference between disclosure and nondisclosure; their research showed how children tend to give more accurate statements when interviewed in a warm, supportive manner. Establishing a good rapport right from the beginning of the interview is crucial so that the child feels accepted, comfortable and suffers less anxiety. Even though such significance is placed on the need for a strong rapport with the child, many interviewers fail in it and try to move too quickly into the next phase of the investigation. (Themeli and Panagiotaki 2014).

Staying in control and feeling prepared

Literature reflected the importance for the child's need to understand the interview process and to feel a sense of control of the conversation in order to be able to talk about the abuse. During forensic interviews, children need to remain informed, feel they are the ones in charge of the conversation and go at a pace that works for them (Davies and Westcott 1999; Gilligan and Akhtar 2005). If children feel apprehensive about what is occurring, their ability to retrieve information from their memory will decrease (Kebbell et al. 2006). In Ungar et al.'s (2009) study of Canadian youth's experiences of disclosing abuse, when interviewees felt the interviews were unmanageable, it would limit their ability to feel safe. This would, therefore, impact negatively on their ability to disclose the abuse. Alaggia's (2010) study of disclosure experiences with child abuse survivors, identified that they wanted to have a sense of ownership of how others interpret their story or situation; going into the interview, they would often fear the possibility of being perceived a certain way. "Youth want control over any disclosure process" (Ungar et al. 2009, p. 705).

Communication

Literature revealed the interviewer's need to have a good awareness of the interviewees' vocabulary skills and their understanding of abuse, in order to have a good investigative interview. Children's ability to participate in strong investigative interviews decrease when interviewers use words or sentences that are above the children's level of comprehension (Wood and Garven 2000). Even in cases with adolescents, who can often resemble adults and can be expected to have the verbal and cognitive abilities as such, may fail to feel comfortable in an interview due to miscommunication (Newlin et al. 2015). Korkman et al. (2008) indicated in their study how interviewers often felt frustrated or sad when they were unable to get interviewees to discuss their abuse; in most cases this was due to them not being able to use

language or questioning that suited their ability. Sometimes children may not understand certain concepts that are relevant within forensic interviews, such as aspects of time or spacial relationships. In such situations, interviewers must be able to assess the child's comprehension level or communication ability and then adapt their ways of asking questions (Stakić 2019).

It was suggested that an ideal time to assess the child's linguistic abilities is during the rapport building stage, as it is before the real substantive portion of the interview (Rohrbaugh, London and Hall, 2016). Many authors pointed to the importance of integrating a preplanned investigation process, thus, allowing for a tailored interview to meet the communication needs of the child (Cederborg et al. 2008; Davies and Westcott 1999; Kebbell et al. 2006; Korkman et al. 2008; Schaeffer et al. 2011; Wood and Garven 2000). Stakić (2019) demonstrated the ability to create conditions for children in providing reliable narratives through strategies such as pre-interviews (before the forensic interview). This strategy is undertaken by a MDT to plan, determine goals and tasks and adjust the conditions of the interview to meet the needs of the child.

Developmental abilities/limitations

Several authors addressed how different abilities and/or impairments could create obstacles to a collaborative interview between interviewer and child. For instance, different congenital factors can compromise children's memory function (Peterson, Jones, Stephens, Gözenman and Berryhill, 2016). Consequently, children may have challenges retelling events during forensic interviews if they have certain medical, developmental or mental health conditions. Memory and cognition are also sensitive when exposed to alcohol and drugs, keeping in mind that exposure can occur prenatally (Peterson et al. 2016). Kebbell et al. (2006) highlighted how interviewing children who have disabilities is a complex process and few investigative interviewers know how to assist children who have intellectual and/or physical impairments. Interviews that involve children who have disabilities requires a process that "adapt[s] to the child's communication style and limitations, and allow adequate time to gather information" (Newlin et al. 2015, p. 5). Information about the child's presenting issues regarding disabilities, development and medical issues becomes a crucial part of being able to communicate effectively with a child during a forensic interview. Children with intellectual disabilities will need more time to: (a) understand the task at hand; (b) understand the question; (c) process the question; (d) retrieve information from memory and (d) put thoughts into words—or communicate in some other way, if they cannot find the word or have difficulty speaking (Kebbell et al. (2006). Investigative interviews with children who have limitations should involve such prior knowledge so that a tailored interview can be prepared to encompass physical or learning impairment needs (Davies and Westcott 1999). Cederborg et al.'s (2008) study involving forensic interviewing with children with intellectual disabilities, stressed the significance of being informed of children's unique characteristics, abilities and limitations before interviewing them. They indicated how prior knowledge allows interviews to incorporate specific techniques and

facilitate needs, possibly enhancing the ability to gain the disclosure. This strategy would allow additional insight into any special accommodations that may be needed to create the safer, more comfortable environment that will enhance the relationship between interviewer and interviewee (Newlin et al. 2015).

Mental health

Abuse is a traumatic experience for children (Newlin et al. 2015). Investigators of child abuse need to take into account how the initial trauma resulting from the abuse impacts them. The stress from trauma may affect children's memory development and communication encoding and retrieval skills that are needed to describe the abuse (Hritz et al. 2015; Middleton 2017). Children's individual dispositions, temperaments and attachment styles have the ability to influence different degrees of stress that is placed on them as well (Hritz et al. 2015). Therefore, when children have been overly frightened, are still suffering from shock, or are still trying to process their traumatic experiences, they "may not be effective reporters in a forensic interview" (Newlin et al. 2015, p 6).

Trauma informed

This practice refers to incorporating the understanding of past and current experiences of trauma into all service delivery models (Poole 2013). The goal is to not re-traumatize, rather to promote health and healing. Langballe and Schultz (2017) recommended that victims who have suffered severe trauma should not even express thoughts and feelings during the first month after the event, as doing so may disrupt their essential and natural recovery process. Milam et al. (2017) expressed how trauma-informed should encompass a victim-centred practice as well. This approach highlights children's need for a genuine rapport and feelings of trust with the professional. Milam et al. (2017) stated that the process should not always be about getting the facts about the case; "not building rapport and trust creates the risk of re-traumatization and damage to the working relationship" (p. 40). Stackle et al. (2021) conducted a study to test their trauma-informed interviews against an already established interview technique. Even though the two techniques did not demonstrate any significantly different outcome, the trauma-informed approach did not take away from the efficacy of the standardized forensic interview protocol. This study may encourage further research regarding approaches that incorporate other techniques to better address children's trauma, anxiety and stress during interviews.

There are additional mental health associations with children's nondisclosures, such as feelings of shame, guilt, embarrassment, depression and suicidal thoughts (Allnock and Miller 2013). In Ungar et al.'s (2009) findings, youth anticipating the consequences that could follow disclosure intensified their fears. In their attempts to avoid overwhelming or frightening experiences, it is not uncommon for children to display behaviours such as distracting, dissociating, denying, or refusing to answer questions (Berson and Meisburger 1998). Alaggia's (2010) study also addressed fears about disclosures—some feared being perceived differently or blaming

themselves for the abuse. The young people in McElvaney's (2008) research indicated they had emotional difficulty when they tried to disclose abuse; they felt afraid, implying that it was easier for them to keep it a secret. Understanding the underlying issues of the children's mental health is paramount in planning the investigative interview and in being able to tailor it to meet their individual needs (Davies and Westcott 1999). Newlin et al. (2015) expressed being flexible for the timing of the interview or to allow multidisciplinary intervention if a child's mental health indicates that he or she is not capable of the interview yet. Barber Rioja and Rosenfeld (2018) explained a critical component of the forensic interview is being able to understand the mental status of the child and discussed an examination strategy to determine this. These authors explained how this method can involve a standardized-type of questioning or as an informal evaluation through observation during the interview. Regardless of method, the objective is to accurately describe the child's behaviours, emotions and thoughts, particularly in comparison to the presence or absence of a mental disorder. Obviously, the forensic interviewer him/herself would need extensive training to understand and detect mental health disorders if there was no mental health clinician assisting during the interview. Involving mental health professionals as consultants within the forensic interview or as support alongside the criminal justice process itself, however, have been discussions for debate (Herbert et al. 2018). Barber Rioja and Rosenfeld (2018) pointed out that in the absence of an adequate cultural understanding, however, observations can result to misinterpretation, resulting in a faulty conclusion. Thus, demonstrating the importance to understand the influences of culture as well for children's disclosures.

Cultural awareness

Several authors addressed culture as a factor that could influence children's willingness or ability to disclose abuse. Alaggia's (2010) study demonstrated how children grow up learning certain expectations based on cultural messaging, which moulds their communication styles and can influence disclosures. Hritz et al. (2015) described this influence as a "cultural force" that can weigh on a child in their decision whether to disclose. Cultural groups that would have a higher prevalence of trauma in our society or suffer result of intergenerational trauma can negatively impact future generations in dealing with childhood trauma.

Culturally safe practice

A cultural-safe approach recognizes the impacts of our colonization histories and the essentialness for a trauma-informed practice. "Cultural safety [is] a preferred way of working as professionals [and the] need to decolonize our professional practice" (Thompson and Taylor 2021, p. 1). The first step in creating a culturally safe practice is having awareness. For our First Nations, Inuit and Métis Peoples in Canada, the trauma from colonization has left residual effects for Indigenous children and youth today, which can be seen in the high rates of mental health,

addictions, violence and suicide (Bourassa et al. 2015; Sinhaa et al. 2013). Indigenous children and youth continue to be disproportionately overrepresented within the Canadian welfare system and child maltreatment investigations (Blackstock et al. 2004; Government of Canada 2018a, b, c, d). Research suggests there are reoccurring patterns of child abuse across generations, however, understanding all the factors involved is an extensive and complex undertaking (Brokenleg 2012; Widom et al. 2015). Brokenleg (2012), a psychologist, member of the Rosesbud Sioux Tribe and an author in the area of trauma, resilience and Native American studies, reiterated how historical trauma can be cumulative and repeat across generations. He indicated how trauma has shaped society of Indigenous communities and the lack of healing for one generation can create problems for the next, having an effect on every Indigenous person. “It sculpts how we think, how we respond emotionally” (p. 10). Colonization results have created a multi-generation of grief, trauma, displacement and an understandable distrust for law enforcement and child protection workers (Blackstock and Trocmé 2005; Indigenous Services Canada 2018). Being trauma-informed and having knowledge regarding the maltreated child’s family history of trauma and/or intergenerational trauma is a significant factor during child maltreatment investigations (Pence 2011). A better understanding of current abuse disclosures from children who are from families that experience intergenerational trauma would be of benefit for investigational processes. More importantly, early intervention and response strategies that can disrupt harmful intergenerational outcomes. Professionals need to stay current about cultural awareness and to view each child’s cultural experience as unique, for there are many differing cultural contexts among children and adults (McElvaney 2008). Gilligan and Akhtar (2005) expressed the same view that professionals involved with child abuse cases must take cultural impacts into account and design their service to meet the needs of the child and allow flexibility in making disclosures. McElvaney (2008), however, discussed how agencies encourage little intervention prior to the formal investigative interview. She pointed out that response times from initial disclosure to formal disclosure vary considerably and raised the question of the professional and ethical difficulties in discouraging a child who needs to connect or to talk before the interview takes place. Some interview protocols recommend the interview be adapted according to the child’s cultural background and preferred language. Therefore, the interviewer should contemplate if an interpreter is needed and be aware of all the cultural factors that could act as barriers in developing efficient rapport and in eliciting such sensitive information (Rohrbaugh et al. 2016). Fontes (2005) highlighted the most efficient strategy to become familiar with a culture is through “consultation with professionals who come from the culture in question” (p. 71). She stressed the helpfulness of having culture-specific information when working with people from a particular group, since this “alerts us to some of the unique issues that may be important for people from that group and can help us design interventions” (Fontes 2005, p. 11). More research and a better understanding for best practices during child abuse investigations is needed when working with

children from various cultures (Barber Rioja and Rosenfeld 2018; Benuto and Garrick 2016).

Environmental needs

Police stations, where child maltreatment investigations are most often held, often frighten children and may reinforce their feeling that they did something wrong (Cross, et al. 2007). Other possible physical distressors for the child may need to be explored as well. Such as, having an age-appropriate interview room, having the child's preferred gender to talk with during the interview and ensuring that the person bringing the child to the interview is actually a good support (Allnock and Miller 2013). In Howell et al.'s study (2012), children who felt comfortable showed more ability to engage and better comprehension of what was being asked of them. Similarly, Berson and Meisburger (1998) found that children needed to feel safe and protected in their immediate environment in order for them to disclose. Clearly, investigative interviewers need prior knowledge of the issues that could create challenges for the interviewee during the interview and include appropriate measures to ensure a comfortable and safe space (Davies and Westcott 1999). CYACs are great environments; they were intendedly created as a neutral, child-appropriate, non-intimidating and safe place that can help reduce the stress for the child (Government of Canada 2017; Milam et al. 2017).

Family dynamics

Several authors tied the importance of understanding the relationship between family dynamics and children's disclosures during investigative interviews. Lyon, Ahern, Malloy, et al.'s (2010) study revealed that children often expect their caregivers to be unsupportive, rejecting and punitive regarding an abuse disclosure. Research tells us that children of parents who are fearful or who deny the abuse are more likely to demonstrate challenges when interviewed (Hritz et al. 2015): "Children are less likely to disclose and more likely to recant when non-offending parents refuse to believe that abuse occurred or otherwise fail to support the allegation" (Lyon et al. 2012, p. 12). Children who feel isolated from their natural support systems may lead to them recanting a disclosure; interviewers must be aware how family relationship, values, loyalty and familial "secret rules" influence disclosures (Bradley and Wood 1996).

Children with non-offending caregivers who are supportive, on the other hand, demonstrate an ability to disclose much more than those that had non-supportive caregivers (Paine and Hansen 2002). Schaeffer et al.'s (2011) study focused on supporting the victim's parents/caregivers. Such support may reverse the negative impact the parent's emotions have on the child, which in turn, then influence on the disclosure. Professionals who provide support to a child's family may help facilitate disclosures of abuse (Ungar et al. 2009). Supporting the mother after her child initially discloses for example, may be a predictor for memory accuracy. It is suggested how these supportive interventions with the mother could contribute to more credible disclosures for

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her child (Middleton 2017). Supporting the mother (or other primary caregiver), will also enhance their ability to support their child and increase opportunities for healthier outcomes.

It is important to consider the possible obstacles to disclose abuse in cases where the perpetrator was a parent. Foynes et al. (2009) compared survivors of abuse who were close with the perpetrator with those that were not. Even though there was no significant result with sexual abuse, both emotional abuse and physical abuse demonstrated how victims were significantly more likely to wait one or more year to disclose or never disclose at all. This study may indicate how disclosures of abuse by someone that was close to them could be more traumatic and possibly require more support and empathic responses. Alaggia (2010) shared how young people's disclosures become more challenging when the child and their parent are both victims of the same perpetrator.

Uniqueness

Several authors acknowledged that every child has distinctive characteristics, needs and/or limitations and indicate the importance for addressing them within the investigative interview. Disclosures are shaped around the individual's level of unique set of circumstances, and professionals need to be prepared for disclosures by understanding the child's obstacles to disclose (Alaggia 2010). An interviewer needs to understand specifics of a child to be able to understand her or his signals indicating when it is safe to push forward with the questioning, when to retreat and what accommodations need to be made (Berson and Meisburger 1998).

Fängström et al. (2017) interesting study explored the use of a computer-assisted tool for shy children during the rapport phase of the interview. These authors discussed how "children who exhibit shy or slow-to-warm-up characteristics react to new people, situations, or contexts with vigilant behaviours and motor quieting; moreover, they are verbally quiet and emotionally reserved. In an interview situation, with an unknown adult, the shy child often behaves in an uncommunicative, anxious, or uncooperative manner" (p. 2). The results of this study showed that the talkativeness increased and the answer latency decreased for the shy children with the computer-assisted interview.

Another example would be the importance for awareness when working with young lesbian, gay or bisexual (LGB) individuals for instance. Unfortunately, lesbian, gay or bisexual, youth can experience many challenges because of how peers or society respond to their sexual orientation (CDC 2021). Studies are starting to demonstrate a growing concern of how sexual minority youth are overrepresented yet may not be adequately served by child welfare services—professionals should be asking children and youth about their identity and learn how their needs could be better understood (Dettlaff et al. 2018).

Discussion

The literature demonstrates the complex issues encompassing child abuse disclosures. Throughout the literature, it was apparent that the most important source of information about the abuse was from the child. The *findings* highlight the need for interviewers to acknowledge the barriers to disclose in order to understand what may help children and youth tell. Equally apparent, when the interviewer does not address the child's needs, the ability to disclose becomes challenged. When interviewers enter the forensic interview and are *blind* to the many qualities that make up the child or simply do not have the ability to detect certain impairments, being able to tailor the interview to what the child needs seems unfeasible. Understanding that the child, for instance, is chronologically 12 but cognitively functions as a five year old, is hard of hearing, has difficulty pronouncing the 'th' sound, uses a certain slang name to describe the genital area or comes from a culture where talking about private areas are 'taboo', may provide some great insight into how the interviewer can prepare for the interview that is specific for what the child may need. Learning about what the child likes or is interested in, would mostly likely help with the initial rapport building; a very crucial aspect of the interview process. Perhaps it would be of benefit to explore the work of Brennan and McElvaney (2020) and McElvaney et al. (2012) regarding children's therapeutic needs and what they require from adults during disclosures of abuse.

All children deserve a formal disclosure process that maximizes their ability to share information about their abuse. When interviews do not involve a process to enable the witness's potential, they may unwittingly make things worse—exacerbating the trauma and most likely leading to no disclosure. In most cases, adults have the ability to communicate factors such as feeling scared or unprepared, which may impact their ability to proceed with the interview. But in many cases, the literature revealed, children do not relay such information; they may enter the interview prematurely and/or with uncertainty, thereby increasing the risk of achieving no disclosure. The literature demonstrated that such issues as being scared, in shock, needing information about the investigation procedure, still processing the abuse and/or lacking the vocabulary to describe the abuse, all have the potential to interfere with children disclosing abuse. Children need and deserve time to understand the investigation process and the opportunity to express their challenges in the beginning of this process. If they are unable to communicate their needs, someone must advocate for those needs and enable children to talk comfortably.

Practice implications

The literature clearly demonstrates a need for the investigation process to slow down prior to the interview and permit time to understand specific circumstances. Literature demonstrated how interviewers need to understand children's challenges and unique needs so barriers to disclose can be understood, conveyed and addressed within the interview. Forensic interviewing experts have suggested that

getting specific information about the child may assist in planning for the interview and in “being sensitive to a child’s specific needs or vulnerabilities” (Rivard and Compo, 2017, p 254). A well-planned investigative interview requires being aware of the many factors and issues unique to the child and of any distinct needs that require support (Davies and Westcott 1999; Newlin et al. 2015; Rohrabough et al. 2016). The importance for interviewers to possess such knowledge is not denied; rather, the abundance of responsibility that such a perspective places on the interviewer for successful interview outcomes is questioned. As well, it is questioned how the interviewer might obtain such a sizeable amount of information about children and find the time to do so.

The investigative interview will only be as good as the planning that goes in before the interview is done—prior knowledge becomes paramount (Kebbell et al. 2006; Rohrabough et al. 2016). To effectively address all of these expectations means the need to expand thinking from *knowing* there is a need for a tailored interview to understanding *how* one can be achieved. As the literature suggested, when a system of knowledge sharing prior to the interview were included in the investigation process, the interviewer could then prepare a tailored interview specific to each child or youth. Learning about a child’s individual characteristics, competencies and limitations can help interviewers understand how to adapt their approach (Cederborg et al. 2008). The idea of collaboration efforts within MDTs may increase the efficiency of the interview to address case-specific needs, possible barriers and strategies to meet the needs of the child (Newlin et al. 2015). MDTs involve communication collaboration amongst colleagues and is a common practice, allowing for a solid understanding of the multi-faceted needs of children, youth and their families (Anderson-Butcher and Ashton 2004). The use of MDTs in CYACs to assist in gaining such knowledge about the child and in working together to strategize how best to meet his or her needs, would create improvements for children, interviewers and society alike.

Improvements for children

Literature indicated the benefits of incorporating MDTs to combine expertise and create a comprehensive understanding of the child’s situation. Many CYACs already have such specialists within their MDTs (such as physicians and mental health clinicians) who specialize in such issues as trauma, and cognitive and physical development (Walsh et al. 2003). Integrating a collaborative effort prior to the interview may heighten the ability for early diagnosis of pertinent mental health concerns requiring immediate intervention. Children who experience such traumatic experiences as abuse often suffer mental health issues that require immediate attention; however, in many cases, they do not get the help they need (Burns et al. 2004). Professionals working together increase the probability of detecting high priority concerns. A fuller understanding of children’s unique circumstances heightens the ability to effectively address them, which then mitigates possibilities for re-traumatization.

Improvements for interviewers

The literature undeniably demonstrated the need for highly trained and skilled interviewers, but also to possess specific knowledge about the child, the skills to address specific issues and the ability to create a strategized and tailored interview. This paper suggests enhancing the effectiveness of working in MDTs by creating a team approach to preparing for interviews specific for each child. Having experts and individuals who know the child to provide information on his/her cognitive functioning, communication level, mental and physical health issues, protection needs or cultural aspects can determine the needs within an interview experience. This practice may help the interviewer plan and address these needs and possibly increase opportunity for a child-centred, trauma-informed and culturally safe interview.

The role of a child forensic interviewer is a demanding undertaking; they are tasked with the insufferable duty of uncovering potential acts of violence on children. “Law enforcement professionals... can find cases of child sexual assault [in particular] less desirable to investigate than other crimes” (O’Donohue and Fanetti, 2016, p. 43). Forensic interviewers can face tremendous stress, burnout and the possibility for experiencing vicarious trauma (Perron and Hiltz 2006; Starcher and Stolzenberg 2020). Another advantage for the use of MDTs is that they create a team working together; as a source that provides mutual support for professionals engaged in such emotionally stressful work (Lalayants and Epstein 2005).

Improvements for society

Literature revealed how we all bear the responsibility of helping children disclose experiences of abuse, yet the receiver of a disclosure may not know what to do. Other factors that result to withholding information about an abuse disclosure are around avoiding the emotions and confusions that are attached with the thought of reporting. Children may sense this uncertainty in reporting and then interpret it as a silent issue possibly increasing their hesitancy to disclose. It was suggested that more education and awareness were needed to enhance both disclosures and reporting abuse. However, the literature did not indicate what additional education would have such an impact. The literature did demonstrate how the use of MDTs in CYACs could not only improve the investigative process and in helping to understand children’s needs, but can increase awareness around important information. It seems logical that MDTs in CYACs can become resources for society members; a centralized hub one could contact when in question of what to do when a disclosure is received or if one needs to disclose. The identification of one or more community child abuse experts, such as those in CYACs, for consultation may encourage reluctant members of society to call about an incident to work through their doubts and concerns.

For further thought

The need to integrate intervention prior to the investigative interview is highlighted, to allow awareness and support for children's immediate needs so potential barriers to disclosures may be decreased. Professionals who work in the area of child abuse are well aware that intervention before the interview is often discouraged (Lipovsky and Hanson 2007). McElvaney's (2008) study encouraged ethical thinking regarding a child who needs more time to connect or talk with others about the abuse before the interview takes place. Expanding on her thoughts may be to explore the kinds of intervention that could be considered acceptable and would not be identified as possibly tainting evidence. For example, if it was learned that a child used language (appropriate for their cognitive development) during an informal disclosure that resembled sexual abuse (but was not an actual term commonly used)—what could prior intervention look like so both the interviewee and interviewer could prepare for an interview?

Children's language abilities are interconnected with the development of reasoning, understanding of concepts and emotional maturity. We, therefore, cannot assume that they all possess the ability to describe a horrific, confusing, or complex event (Korkman et al. 2008). North American society encourages abuse education programmes that recommend components that teach children to identify and resist inappropriate touching, reassuring children that it is not their fault and learning the proper names of their genitals (Kenny et al. 2008). However, we cannot speculate that all children would receive this type of training on language regarding abuse. If education occurred before the forensic interview, many may feel this would be the child's best interest to have him/her able to use and understand language that would allow for a credible disclosure. As most adults have the language to describe what happened to them, it makes sense that children would have this right as well. Yet the concern of suggestibility continues to be a complicated issue regarding children's disclosures of abuse within the legal system, particularly for interviewers. Klemfuss and Olaguez's (2020) review was inconclusive for educational/psycho-social affecting children's suggestibility and encouraged future research in this area. There also appears to be continual disagreement amongst researchers and professionals regarding what and how much information the interviewer should know before conducting the forensic interview (Rohrbaugh et al. 2016; Rivard and Schreiber Compo 2017). Thus, adding to the need for a more comprehensive understanding in this area.

In many CYACs, multidisciplinary intervention begins at the initial report; it includes but is not limited to the pre-interview, which identifies a specific child's needs (Government of Canada, Department of Justice 2017). Multidisciplinary teamwork can facilitate successful investigations, "while improving the welfare of the children and non-offending caretakers" (MacLeod 2016, p. 43). However, there is no standard of practice for the composition of the team or approaches to collaboration; therefore, the members of an MDT and their functions vary across communities. The same is true for the CYAC practice in designating a child victim service worker or advocate as on-going support for a child and his/her family,

and in most cases, as the first point of contact for them. When children first participate in the investigative process, professionals must have specialized training in the dynamics of child abuse and trauma; otherwise, misinterpretation of their state may create risk for further traumatization, thereby reducing children's ability to communicate (National Child Traumatic Stress Network 2008). Such professionals who work with children immediately following a report of abuse are interacting with them at a critical moment. Including discussions with the child's guardians or other professionals who work and know the child is beneficial as well, to gain insight into their developmental level or concerning issues (Rohrbaugh et al. 2016). It may have been beneficial for this paper to explore how victim service workers/advocates and MDTs in CYACs who specialize in child abuse and trauma, work together prior to the investigative interview. Their approaches may help us understand how and if their interventions have an effect or influence children's disclosures during the interview. Lippert et al. (2009) study demonstrated that the rates of children's disclosures were similar between communities that had a CYAC and those that did not. However, these authors also encouraged further research to examine the influence of "setting characteristics, interviewers' background (forensic interviewer vs. CPS vs. police), interview methods, the diversity of cases, and methodological differences on disclosure rates" (p. 110–111).

Another area that would benefit from further exploration is disclosure issues among Indigenous children and youth. Research regarding issues that impact disclosures specifically with Indigenous children and youth was not found. Due to colonization (past and present), many Indigenous children endure both developmental and intergenerational components, adding to the complexities of trauma (Ministry of Children and Family Development 2017). Literature most often addressed barriers to disclose as inclusive of all nationalities; perhaps these generalizations add to the factors that create challenges and issues to disclose among Indigenous children? Some aspects specific to Canadian Indigenous culture may influence whether children withhold a disclosure, especially when factors such as intergenerational trauma are considered (Collin-Vézina et al. 2009). It would have been beneficial to have Indigenous-specific research included in this review to understand issues that impact disclosures of abuse pertaining to Canadian Indigenous children. It would also be interesting to explore research regarding the use of MDTs and CYACs with different cultural views to better understand culturally safe practices when responding to cases of child maltreatment.

Conclusion

The literature clearly demonstrated the complex issue regarding child abuse disclosures. There are numerous factors to consider when responding to cases of child maltreatment and the issues that have an impact on children's ability to disclose during the investigative interview. Rapport with the interviewer, the child's need to feel empowered and have access to information, communication barriers, developmental abilities or limitations, mental health issues, environment needs, family

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dynamics, cultural issues and just needing an understanding of the child's specific circumstances or other issues that can interfere with the ability to disclose. Literature clearly demonstrated how the factors that influence children's disclosures are loaded conversations themselves. Each factor requires further exploration to fully appreciate how many issues there are in each and how combinations of factors create a multi-faceted effect impacting children during their disclosures of abuse.

It is evident that children need help to talk about their abuse, and this makes it a societal issue; this is where encouragement to talk about abuse begins. The disadvantages of a nondisclosure can be enormous for the victim and their family, and the long-term consequences are very costly for society. The review suggested that the investigative process slow down prior to the interview, to allow time to understand the child's circumstances and tailor the interview to suit their needs. Perhaps a good starting place is to stop viewing issues as obstacles, rather as indicators and opportunities to understand what each specific child needs during disclosures of abuse.

A thorough gathering of background information before the interview is suggested, by utilizing the expertise and wisdom of MDTs and other community partners as needed. The literature revealed that MDTs and CYACs were ideal resource systems to incorporate the combination of expertise working and communicating together to best understand and meet the needs of the child. MDTs and CYACs could also be identified as a central resource for societal members needing to consult about child abuse cases that may help them encourage young victims to formally disclose abuse.

We still have a lot to learn about most effective, trauma-informed and culturally safe approaches when responding to cases of child maltreatment that fully meet the needs of the child. Perhaps another good starting point is to start asking ourselves if we have enough information about the child that permits us to say we are child-centred, trauma-informed and culturally safe? The saying (traditionally an African proverb, now adopted by many North American Indigenous communities), *it takes a whole village to raise a child*, relates to what this review demonstrates regarding the need for MDTs, CYACs, welfare/legal systems and society working together, as it takes a community to help children to disclose their abuse (Pence 1999).

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	Docket No.: 2023-CP-26-02424
MOTHER DOE AND FATHER DOE,	)	
INDIVIDUALLY AND AS THE	)	
PARENTS AND NATURAL	)	MEMORANDUM IN OPPOSITION
GUARDIANS OF JANE DOE, A	)	TO PLAINTIFFS' MOTION FOR A
MINOR,	)	PROTECTIVE ORDER
	)	
Plaintiffs,	)	
	)	
v.	)	
PALMETTO PRESCHOOL &		
LEARNING CENTER, LLC,		
Defendant.		

Defendant Palmetto Preschool & Learning Center, LLC (“Defendant”), by and through undersigned counsel, submits this memorandum in response to Plaintiffs’ Motion for Protective Order Barring Deposition of Plaintiff Jane Doe (filed November 14, 2024) and Plaintiffs’ Memorandum In Support of Their Motion for Protective Order (filed February 14, 2025). Defendant respectfully requests the Court issue an order denying Plaintiffs’ motion.

FACTUAL AND PROCEDURAL HISTORY

This is a negligence case brought by parents individually and on behalf of their minor child against a preschool arising from alleged contact between minor Jane Doe and another minor child in a bathroom at the preschool sometime in September 2020. Compl. ¶¶7–18. Plaintiffs allege that Mother Doe reported the alleged incident to Defendant, and that Defendant said it would investigate the allegations and separate

the children. Compl. ¶¶8–9. Plaintiffs further allege that two days after Mother Doe addressed the incident with Defendant, Jane Doe reported she had been contacted a second time in the bathroom by the alleged perpetrator. Compl. ¶11. Plaintiffs claim that these incidents constituted sexual assault. Compl. ¶¶7,11.

Plaintiffs also assert that Defendant “possessed actual and/or constructive knowledge of the inappropriate actions Plaintiff Jane Doe suffered yet failed to take any action to prevent the abuse.” Compl. ¶17. Plaintiffs filed their Complaint on April 18, 2023. Defendant answered, denying the above-stated allegations of the Complaint. Answer ¶7. Defendant served Notices of Deposition for Plaintiffs Mother Doe, Father Doe, and Jane Doe on October 29, 2024. The depositions were noticed for November 15, 2024. The day before depositions were scheduled to begin, Plaintiffs filed the Motion for Protective Order Barring Deposition of Plaintiff Jane Doe that is currently pending before the court.

STANDARD

Rule 26(b)(1), S.C. R. Civ. P., provides that “[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action[.]” The court may issue an order limiting discovery “to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense” Rule 26(c), S.C. R. Civ. P. The party requesting the protective order has the burden of showing that a particularized harm will be caused by allowing the discovery. *See Hollman v. Woolfson*, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009). If the moving party meets this burden, then the opposing party must show that the

information sought is “relevant and necessary” to the case. *Id.* (citing *Laffitte v. Bridgestone Corp.*, 674 S.E.2d, 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 is “relevant and necessary” evidence against any particularized harm the opposing party may suffer. *Id.*

ARGUMENT

Plaintiffs cannot meet their burden of showing a “particularized harm” that would merit the complete barring of Jane Doe’s deposition. The deposition testimony of Jane Doe is clearly relevant and necessary to this case, and Defendant is willing to impose reasonable accommodations on the deposition. As such, Defendant respectfully asks the Court to deny Plaintiffs’ motion.

I. Plaintiffs Have Failed to Support Their Claim that the Deposition Will Create a “Particularized Harm” to Jane Doe

On February 14, 2025, Plaintiffs filed their Memorandum in Support of their Motion for Protective Order and attached an affidavit from Shavonne Myers. Myers’ affidavit states she is a licensed professional counselor who began working with Doe on October 28, 2021 and opined that “Jane Doe would suffer a substantial likelihood of severe emotional trauma if she is deposed.” However, Plaintiffs have not shown that the complete barring of Doe’s deposition is an appropriate remedy, nor have they shown that Doe would suffer particularized harm if certain limitations or measures were put in place regarding the deposition.

As other Courts have recognized, there are measures and limitations that can be put into place for a minor’s deposition in order to reduce potential harm. *See In re*

Transit Mgmt. of Se. Louisiana, Inc., 2000-0622 (La. 5/12/00), 761 So. 2d 1270, 1271 (finding a district court erred in denying a motion to depose a seven year-old minor and in granting a protective order, even where the parties opposing the deposition provided affidavits from a pediatrician, clinical psychologist, headmaster, and chaplain all alleging it would cause the child “considerable mental stress,” and holding “We share the district court's concern that a deposition of a child of Michael's age could be stressful. However, the district court abused its discretion by prohibiting relator from taking Michael's deposition. The trial court may consider alternative methods to reduce the level of stress to the child while at the same time preserving relator's right to obtain information necessary to its defense.”); *Gray v. Howlett Lumber Co.*, No. 051645A, 2007 WL 2705748, at *1 (Mass. Super. Aug. 9, 2007) (“Here, D'Von's counselor states that questions about Tyler's death would likely increase his level of anxiety and possibly lead to a ‘post traumatic response.’ While these are significant risks that must be taken into account, the Court is not satisfied that the concerns expressed by the child's counselor are sufficient to justify an order precluding D'Von's deposition. However, the risk to D'Von's mental health does warrant the placement of reasonable restrictions on the manner in which D'von is deposed. The parties are therefore ordered to confer and develop a set of rules that will govern D'Von's deposition, to be submitted for the Court's approval.”); *Galbreath v. Braley*, 318 Ga. App. 111, 114, 733 S.E.2d 412, 415 (2012), disapproved of by *Gen. Motors, LLC v. Buchanan*, 313 Ga. 811, 874 S.E.2d 52 (2022) (vacating a trial court’s protective order prohibiting the deposition of a minor, even where minor’s parents

filed an affidavit of a licensed clinical social worker opining that the minor was at “extreme risk for her psychological and emotional safety if exposed to any significant stressor,” and remanding the case to the trial court so the trial court “might reconsider whether and to what extent the deposition of K.W. may go forward without exacerbating any psychological harm that might have occurred due to the alleged molestation.”); *id.* at 112–13, 733 S.E.2d at 414 (noting that “Neither the trial court's order nor the appellee has pointed to, and we have not been able to locate, a case where a litigant was prohibited entirely from conducting a deposition aimed at seeking information necessary to a party's case.”); *Arassi v. Weber-Stephen Prods. LLC*, No. 13-CV-684, 2014 WL 1385336, at *2–3 (E.D. Wis. Apr. 9, 2014) (denying plaintiffs’ motion to quash subpoenas for the depositions of two minors, who were 14 and 10 years old at the time of the noticed depositions and 10 and 6 years old at the time of the accident, even where plaintiffs submitted letters from the children’s mental health providers, as there were “measures and limitations” that could be “fashioned to protect the children from any irreparable harm,” and the children were fact-witnesses who may possess “different facts or perspectives” than other witnesses); *A.G.1 v. City of Fresno*, No. 116CV01914LJOSAB, 2018 WL 2045092, at *1 (E.D. Cal. Apr. 30, 2018) (“While the Court is sympathetic that these depositions are emotional for the minors involved, the minors brought the claims in this action and Defendants are entitled to depose them.”); *Hereford v. City of Hemet*, No. 5:22-CV-00394-JWH-SHK, 2024 WL 3059056, at *6 (C.D. Cal. June 14, 2024) (granting defendants’ motion to compel the deposition of minor children, while being “cognizant

and sympathetic to the young ages of the Minor Children, the sensitive nature of the events underlying Plaintiffs' claims, and the potential anxiety that a deposition may cause any individual, especially children, the Court finds that measures can be taken to prevent potential harm to the children”).

II. The Deposition Testimony of Jane Doe Is “Relevant and Necessary”

Clearly, the deposition testimony of minor Jane Doe is “relevant and necessary” to the case. *See Hollman v. Woolfson*, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009) (citing *Laffitte v. Bridgestone Corp.*, 674 S.E.2d, 381 S.C. 460, 674 S.E. 2d 154 (2009)). The Complaint alleges there were two incidents in the bathroom at Defendant’s preschool between Defendant and another minor, and that these incidents amounted to “sexual assault.” Compl. ¶7-11. This allegation forms the basis of Plaintiffs’ negligence claims against Defendant. Plaintiffs have not alleged there were any other witnesses to the purported abuse besides Jane Doe and the purported perpetrator. The child accused of perpetrating the incident is not a party to this lawsuit. All of the other actions alleged by Plaintiffs, including Mother Doe’s concerns with how Defendant handled the alleged abuse, depend upon Jane Doe’s allegations that she was abused. Defendant recognizes the serious and sensitive nature of these accusations, but because Jane Doe’s allegations are foundational to the entire lawsuit, the court should allow the deposition to proceed.

III. Defendant is Willing to Impose Reasonable Parameters on the Deposition

South Carolina courts use Rule 26(c) to determine whether a party should be protected from a deposition. Our courts have not developed a specific test for

determining when a minor should be protected from giving a deposition. Georgia's Court of Appeals, however, has developed a seven-factor test for trial courts to consider when imposing reasonable restrictions upon the method by which a minor might be deposed. While this authority is not binding, the *Galbreath* test is informative and could help this Court set reasonable parameters to help protect Jane Doe at her deposition.

In *Galbreath v. Braley*, 318 Ga. App. 111, 733 S.E.2d 412 (Ga. Ct. App. 2012) (Disapproved on other grounds by *Gen. Motors, LLC v. Buchanan*, 313 Ga. 811, 874 S.E.2d 52 (2022)), Galbreath was accused of kissing and fondling K.W., a thirteen-year-old girl and friend of Galbreath's son. *Id.* at 111, 733 S.E.2d at 413. Based on these accusations, Galbreath's ex-wife petitioned the court to modify their custody agreement. *Id.* Galbreath sought to take K.W.'s videotaped deposition in connection with these allegations, but K.W.'s parents filed a motion to quash and for a protective order. *Id.*

To support their motion, K.W.'s parents included the affidavit of a licensed clinical social worker who had treated K.W. in trauma-related therapy sessions. *Id.* The affidavit stated that K.W. was "at extreme risk for her psychological and emotional safety if exposed to any significant stressor" and that K.W. had "specifically identified James Galbreath as a trigger for psychological distress and physiological reactivity." *Id.* The court ruled in favor of K.W.'s parents, granting the motion to quash the deposition and for a protective order. *Id.* at 112, 733 S.E.2d 413. Galbreath appealed. *Id.*

The Georgia Court of Appeals vacated the protective order and remanded the case to the trial court to consider whether and to what extent K.W.'s deposition should go forward. *Id.* at 112, 733 S.E.2d at 414. It instructed the trial court to “consider allowing the deposition while imposing reasonable restrictions upon the method by which she might be deposed.” *Id.* at 114, 733 S.E.2d at 415. The appellate court outlined the following seven factors trial courts should consider:

1. Where the deposition is to be held
2. The length of the deposition
3. Who shall be present at the deposition (for example, a parent or counselor)
4. The possibility of breaks as necessary to accommodate the minor's reasonable needs;
5. The option to suspend the deposition in the event of an emergency;
6. Previewing the questions to be asked at the deposition; and
7. The taking of minor's deposition remotely via audio visual means.

Taking the *Galbreath* factors into consideration, Defendant would be glad to make accommodations to make Jane Doe's deposition as comfortable for the minor as possible, such as (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 as 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.

CONCLUSION

Plaintiffs have failed to show that Jane Doe will suffer a particularized harm as required to obtain a protective order under Rule 26(c) completely barring the deposition of Doe. Moreover, the deposition testimony of Jane Doe is clearly relevant and necessary in this case. Finally, Defendant is agreeable to reasonable accommodations for the deposition. For those reasons, Defendant asks the Court to deny Plaintiffs' motion.

Turner Padget Graham & Laney, P.A.

/s/ Robert E. Kneece III

Robert E. Kneece III

SC Bar No. 101279

Post Office Box 22129

Charleston, South Carolina 29413

Direct: 843-576-2829

Fax: 843-577-1639

RKneece@TurnerPadget.com

Charleston, South Carolina

February 17, 2025

ATTORNEYS FOR DEFENDANT

From: Van Slambrook, Dale E. Law Clerk (Payton Muller) <dvanlambrooklc@sccourts.org>
Sent: Tuesday, February 25, 2025 9:16:43 AM (UTC-05:00) Eastern Time (US & Canada)
To: jflumian@mcgowanhood.com <jflumian@mcgowanhood.com>
Cc: Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <dvanlambrooksc@sccourts.org>; Kneece III, Robert E <RKneece@TurnerPadget.com>
Subject: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Ms. Flumian,

Judge Van Slambrook asks that you prepare an Order which *grants* Plaintiff's Motion for Protective Order. Please include all procedural and factual history you feel is necessary and submit via e-filing within ten (10) days. Thank you!

Very Respectfully,

Payton M. Muller, Esq.

Law Clerk for The Honorable Dale E. Van Slambrook
300-B California Avenue
Moncks Corner, SC 29461
Phone 843.719.4435

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

**From:** Kneece III, Robert E  
**Sent:** Monday, March 3, 2025 9:19 PM  
**To:** Julia Flumian  
**Cc:** Dan Luginbill; Kardish, Sandra M.; Beard, Gena G  
**Subject:** RE: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Julia,

Respectfully I do not believe the proposed order as written is appropriate for an order on a Motion for Protective Order.

The Facts section is not written as if it is a recap of the Plaintiff's disputed version of events; instead, it is written as if the judge is deciding the facts of the case. That is not appropriate, especially considering this is a ruling on a Motion for Protective Order and not a dispositive motion. Moreover, Judge Van Slambrook did not offer any commentary on the facts at the hearing or in his email asking for a proposed order. There are a number of statements within the Fact section that are disputed or not supported by the record that are presented as undisputed fact. I do not see how most, if not all, of the Fact section is necessary or related to the judge's ruling, and it would be improper for a judge to be making factual findings in this manner.

Similarly, the Analysis section contains improper factual findings, such as each of the sentences that begin "There is no dispute . . . ," and then go on to state facts that my client does not agree with.

Overall, it is my position that this proposed order is exceedingly broad and contains a number of inappropriate factual findings that are superfluous to the issue at hand – which is simply the issue of whether the judge would allow the deposition of Jane Doe to go forward. That ruling needs to include a ruling on the issue of whether there are reasonable accommodations that can be imposed on the deposition that would allow it to go forward in some capacity.

-Robert

 **Robert Kneece III**  
Shareholder  
PO Box 22129 | Charleston, SC 29413  
40 Calhoun Street, Suite 200 | Charleston, SC 29401  
843-576-2829 | Fax 843-577-1639  
rkneece@turnerpadget.com  
[Bio](#) | [vCard](#) | [Location](#)

---

**From:** Julia Flumian <jflumian@mcgowanhood.com>  
**Sent:** Monday, March 3, 2025 2:57 PM  
**To:** Kneece III, Robert E <RKneece@TurnerPadget.com>  
**Cc:** Dan Luginbill <dluginbill@mcgowanhood.com>; Kardish, Sandra M. <SKardish@TurnerPadget.com>; Beard, Gena G <GBeard@TurnerPadget.com>  
**Subject:** FW: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Robert,

My draft of the proposed order in the above-referenced case is attached. I plan to submit it to Judge Van Slambrook for his review tomorrow. Please let me know if you have any questions or concerns.

Regards,  
Julia

Julia M. Flumian  
McGowan Hood Felder & Phillips, LLC

843.268.4681 (direct)  
843.268.0251 (office)  
843.388.3194 (fax)  
10 Shem Drive, Suite 300  
Mount Pleasant, SC 29464

---

**From:** Van Slambrook, Dale E. Law Clerk (Payton Muller) <[dvanlambrooklc@sccourts.org](mailto:dvanlambrooklc@sccourts.org)>  
**Date:** Tuesday, February 25, 2025 at 9:16 AM  
**To:** Julia Flumian <[jflumian@mcgowanhood.com](mailto:jflumian@mcgowanhood.com)>  
**Cc:** Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <[dvanlambrooksc@sccourts.org](mailto:dvanlambrooksc@sccourts.org)>, [rkneece@turnerpadget.com](mailto:rkneece@turnerpadget.com) <[rkneece@turnerpadget.com](mailto:rkneece@turnerpadget.com)>  
**Subject:** 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Ms. Flumian,

Judge Van Slambrook asks that you prepare an Order which *grants* Plaintiff's Motion for Protective Order. Please include all procedural and factual history you feel is necessary and submit via e-filing within ten (10) days. Thank you!

Very Respectfully,

**Payton M. Muller, Esq.**  
Law Clerk for The Honorable Dale E. Van Slambrook  
300-B California Avenue  
Moncks Corner, SC 29461  
Phone 843.719.4435

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| | | |
|--|---|------------------------------|
| STATE OF SOUTH CAROLINA |) | IN THE COURT OF COMMON PLEAS |
| |) | FIFTEENTH JUDICIAL CIRCUIT |
| COUNTY OF HORRY |) | 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 PLAINTIFFS' |
| |) | REQUEST FOR PROTECTIVE ORDER |
| vs. |) | |
| |) | |
| Palmetto Preschool & Learning Center, |) | |
| LLC |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

THIS MATTER came before the Court upon Plaintiffs' 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 had sexually assaulted her in a bathroom stall by blocking the door, pulled on her underwear, and tried to put the toilet paper and the cardboard piece in her vagina area. [Mother Doe Dep. 23:22-24:5, Nov. 15, 2024].

The following day, Mother Doe reported the sexual assault to Defendant Palmetto Preschool by discussing it with Jane Doe's teacher, Anna Annable, and then-director, Jennifer Cusack. In response to this report, Ms. Cusack assured Mother Doe she would investigate the assault. [Mother Doe Dep. 39:9-18, Nov. 15, 2024]. Neither Ms. Cusack nor Ms. Annable informed Mother Doe they were already on notice of the assault as Ms. Annable had been in the bathroom area at the time it occurred and had seen the perpetrator "while she still had her hands, like, cramming stuff down (Jane Doe's) pants." [Rogers Dep. 74:10-12, Jan. 7, 2025].

Ms. Cusack informed Mother Doe the following day that she had spoken with the perpetrator's parents and offered assurances that she would separate Jane Doe from the perpetrator in the future. [Mother Doe Dep. 39:9-18, Nov. 15, 2024]. All notes related to Ms. Cusack's investigation, including any she took regarding her interview of Jane Doe, have been lost or destroyed. [Rogers Dep. 67:7-71:13, Jan. 7, 2025]. Mother and Father Doe, relying upon the assurances from Defendant Palmetto Preschool's employees that their daughter would be safe, permitted Jane Doe to return. [Mother Doe Dep. 45:8-13, Nov. 15, 2024]. Thereafter, Jane Doe reported to her mother that she had been sexually assaulted a second time by the same child, again in a bathroom, where she was pulling at her underwear, trying to insert wadded-up toilet paper in her vagina. [Mother Doe Dep. 41:1-6, Nov. 15, 2024]. Mother and Father Doe removed Jane Doe from Defendant Palmetto Preschool as soon as they found an alternative remote learning program. [Mother Doe Dep. 47:12-25, Nov. 15, 2024]. Their other child, who was in a different age group from the perpetrator, remained at Defendant Palmetto Preschool for the remainder of the 2020-2021 school year. [Mother Doe Dep. 64:8-15, Nov. 15, 2024].

In the weeks and months that followed, Mother and Father Doe observed behaviors by Jane Doe they found concerning, including suicidal ideation and masturbating in front of peers. [Mother

Doe Dep. 64:19-66:17, Nov. 15, 2024]. Mother Doe researched appropriate providers in the area and found Shavonne Myers, M.A., LPC, with H.O.P.E. Counseling Services, LLC. [Mother Doe Dep. 68:3-71:8, Nov. 15, 2024]. During the initial intake process, Mother Doe informed Ms. Myers about the sexual assaults at Defendant Palmetto Preschool. On October 29, 2021, Ms. Myers reported the assaults to DSS as she is a mandatory reporter. [Misc. Note, Shavonne Myers, October 29, 2021]. Jane Doe began weekly therapy with Ms. Myers in October 2021. After several weeks of rapport building, Jane Doe discussed the sexual assault with Ms. Myers on January 17, 2022. Jane Doe remains in bi-weekly therapy with Ms. Myers.

Plaintiffs' Complaint was filed on April 18, 2023. Defendant Palmetto Preschool requested Jane Doe's deposition on September 18, 2024. Counsel for the parties discussed the request on October 1, 2024. On October 8, 2024, Counsel for Defendant Palmetto Preschool informed Plaintiffs' counsel that he had spoken with his client and "we need to and are entitled to depose the minor Plaintiff." [Email from Defense Counsel to Plaintiffs' counsel, Oct. 8, 2024]. Defense counsel explained that he had discussed with his client Plaintiffs' counsel's suggestion of deposing Ms. Myers first and then reassessing Defendant's need to take Jane Doe's deposition, "and we still believe it is vital that we depose the minor, regardless of whether the therapist is deposed." [*Id.*]. The instant motion was filed thereafter.

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), SCRCP; *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 a 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, Plaintiffs provided the Court with Ms. Myers’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.*

With regard to the relevance and necessity of Jane Doe’s deposition, Defendant Palmetto Preschool argues that her testimony is “foundational” to the Plaintiffs’ claims. In furtherance of this argument, Defendant Palmetto Preschool claimed there were no witnesses to the assaults,

despite its 30(b)(6) witness Amber Rogers previously testifying that Ms. Annable walked in on one of the assaults 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. Plaintiffs' allegations are premised upon Defendant Palmetto Preschool's actual or constructive knowledge of the risk posed by the perpetrator child and its failure to protect her from the same. There is no dispute Mother Doe told Defendant Palmetto Preschool that the perpetrator child assaulted Jane Doe by isolating her in a bathroom stall and forcibly shoving paper products in her vaginal area. There is no dispute that Ms. Cusack assured Mother Doe that she would investigate the assault allegation and undertook the duty to separate Jane Doe and the perpetrator child. Jane Doe's testimony does not alter these facts. Therefore, Defendant Palmetto Preschool has not demonstrated with specificity how the lack of Jane Doe's deposition will impair the presentation of the case on the merits to the point that an unjust result is a real, rather than a merely possible, threat. *Hollman, supra*.

The Court has reviewed the applicable law, the legal briefs submitted by all parties, the exhibits to Plaintiffs' 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 because reasonable alternatives are available to discover the information sought from her deposition. Therefore, in its discretion, the Court concludes that Plaintiffs' Motion for protective order is GRANTED.

THEREFORE, IT IS ORDERED that Plaintiffs' Motion for Protective Order is GRANTED.

Honorable Dale E. Van Slambrook
Circuit Court Judge

March __, 2025

From: Julia Flumian <jflumian@mcgowanhood.com>
Date: March 4, 2025 at 5:58:33 PM EST
To: "Van Slambrook, Dale E. Law Clerk (Payton Muller)" <dvanlambrooklc@sccourts.org>
Cc: "Van Slambrook, Dale E. Secretary (Elizabeth Atkins)" <dvanlambrooksc@sccourts.org>, "Kneece III, Robert E" <RKneece@turnerpadget.com>
Subject: Re: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Payton,
Please be aware I e-filed my draft of the proposed order this evening. I previously provided an earlier draft to Mr. Kneece and have attempted to incorporate some of his requested changes.

Please let me know if you have any questions or concerns.

Regards,
Julia

Julia M. Flumian
McGowan Hood Felder & Phillips, LLC

843.268.4681 (direct)
843.268.0251 (office)
843.388.3194 (fax)
10 Shem Drive, Suite 300
Mount Pleasant, SC 29464

From: Van Slambrook, Dale E. Law Clerk (Payton Muller) <dvanlambrooklc@sccourts.org>
Date: Tuesday, February 25, 2025 at 9:16 AM
To: Julia Flumian <jflumian@mcgowanhood.com>
Cc: Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <dvanlambrooksc@sccourts.org>, rkneece@turnerpadget.com <rkneece@turnerpadget.com>
Subject: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Ms. Flumian,

Judge Van Slambrook asks that you prepare an Order which *grants* Plaintiff's Motion for Protective Order. Please include all procedural and factual history you feel is necessary and submit via e-filing within ten (10) days. Thank you!

Very Respectfully,

Payton M. Muller, Esq.

Law Clerk for The Honorable Dale E. Van Slambrook
300-B California Avenue
Moncks Corner, SC 29461
Phone 843.719.4435

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|                                          |   |                              |
|------------------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA                  | ) | IN THE COURT OF COMMON PLEAS |
|                                          | ) | FIFTEENTH JUDICIAL CIRCUIT   |
| COUNTY OF HORRY                          | ) | 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 PLAINTIFFS'   |
|                                          | ) | REQUEST FOR PROTECTIVE ORDER |
| vs.                                      | ) |                              |
|                                          | ) |                              |
| Palmetto Preschool & Learning Center,    | ) |                              |
| LLC                                      | ) |                              |
|                                          | ) |                              |
| Defendant.                               | ) |                              |
| _____                                    | ) |                              |

THIS MATTER came before the Court upon Plaintiffs' 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 ~~had sexually assaulted her in a~~ had blocked the bathroom stall door bathroom stall by blocking the door, pulled on her underwear, and tried to put the toilet paper and the cardboard piece in her vagina area. [Mother Doe Dep. 23:22-24:5, Nov. 15, 2024].

The following day, Mother Doe reported ~~the sexual assault~~the incident to Defendant Palmetto Preschool by discussing it with Jane Doe's teacher, Anna Annable, and then-director, Jennifer Cusack. In response to this report, Ms. Cusack assured Mother Doe she would investigate ~~the assault~~. [Mother Doe Dep. 39:9-18, Nov. 15, 2024]. Neither Ms. Cusack nor Ms. Annable informed Mother Doe they were already on notice of the event ~~as of the assault as~~ Ms. Annable had been in the bathroom area at the time~~when~~ it occurred and had seen the perpetrator "while she still had her hands, like, cramming stuff down (Jane Doe's) pants." [Rogers Dep. 74:10-12, Jan. 7, 2025].

Thereafter, Ms. Cusack informed Mother Doe ~~the following day~~ that she had spoken with the perpetrator's parents and offered assurances that she would separate Jane Doe from the perpetrator in the future. [Mother Doe Dep. 39:9-18, Nov. 15, 2024]. All notes related to Ms. Cusack's investigation, including any she took regarding her interview of Jane Doe, have been lost or destroyed. [Rogers Dep. 67:7-71:13, Jan. 7, 2025]. Mother and Father Doe, relying upon the assurances from Defendant Palmetto Preschool's employees that their daughter would be safe, permitted Jane Doe to return. [Mother Doe Dep. 45:8-13, Nov. 15, 2024]. Thereafter, Plaintiffs allege Jane Doe reported to her mother ~~that she had been sexually assaulted~~ that for a second time, the ~~by the~~ same child, again in a bathroom, ~~where she was pulling~~had pulled at her underwear, and had ~~tried~~ying to insert wadded-up toilet paper in her vagina. [Mother Doe Dep. 41:1-6, Nov. 15, 2024]. Mother and Father Doe removed Jane Doe from Defendant Palmetto Preschool as soon as they found an alternative remote learning program. [Mother Doe Dep. 47:12-25, Nov. 15, 2024]. Their other child, who was in a different age group from the perpetrator, remained at Defendant Palmetto Preschool for the remainder of the 2020-2021 school year. [Mother Doe Dep. 64:8-15, Nov. 15, 2024].

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Plaintiffs' Complaint was filed on April 18, 2023. Defendant Palmetto Preschool requested Jane Doe's deposition on September 18, 2024. Counsel for the parties discussed the request on October 1, 2024. On October 8, 2024, Counsel for Defendant Palmetto Preschool informed Plaintiffs' counsel that he had spoken with his client and "we need to and are entitled to depose the minor Plaintiff." [Email from Defense Counsel to Plaintiffs' counsel, Oct. 8, 2024]. Defense counsel explained that he had discussed with his client Plaintiffs' counsel's suggestion of deposing Ms. Myers first and then reassessing Defendant's need to take Jane Doe's deposition, "and we still believe it is vital that we depose the minor, regardless of whether the therapist is deposed." [*Id.*]. The instant motion was filed thereafter.

### **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), SCRC; 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 a 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, Plaintiffs provided the Court with Ms. Myers’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*.

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With regard to the relevance and necessity of Jane Doe’s deposition, Defendant Palmetto Preschool argues that her testimony is “foundational” to the Plaintiffs’ 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 were no witnesses to the assault events, despite its 30(b)(6) witness Amber Rogers previously testifying that Ms. Annable walked in on one of the assaults 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. Plaintiffs’ 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. There is no dispute Mother Doe told Defendant Palmetto Preschool that the perpetrator child assaulted Jane Doe by isolating her in a bathroom stall and forcibly shoving paper products in her vaginal area. There is no dispute that Ms. Cusack assured Mother Doe that she would investigate the assault allegation and undertook the duty to separate Jane Doe and the perpetrator child. Jane Doe’s testimony does not alter these facts. Therefore, Defendant Palmetto Preschool has not demonstrated with specificity how the lack of Jane Doe’s deposition will impair

~~the presentation of the case on the merits to the point that an unjust result is a real, rather than a merely possible, threat.~~ *Hollman, supra.*

The Court has reviewed the applicable law, the legal briefs submitted by all parties, the exhibits to Plaintiffs' 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 because reasonable alternatives are available to discover the information sought from her deposition.~~ Therefore, in its discretion, the Court concludes that Plaintiffs' Motion for protective order is GRANTED.

THEREFORE, IT IS ORDERED that Plaintiffs' Motion for Protective Order is GRANTED.

March \_\_, 2025

Honorable Dale E. Van Slambrook  
Circuit Court Judge

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**From:** Kneece III, Robert E  
**Sent:** Wednesday, March 5, 2025 11:21 AM  
**To:** Julia Flumian; Van Slambrook, Dale E. Law Clerk (Payton Muller)  
**Cc:** Van Slambrook, Dale E. Secretary (Elizabeth Atkins); Beard, Gena G; Kardish, Sandra M.  
**Subject:** RE: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order  
**Attachments:** Re: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Good morning,

I am writing regarding the draft of the proposed Order Granting Plaintiff's Request for Protective Order that was filed by Plaintiff yesterday.

I have attached an email chain between Plaintiff's counsel and I regarding my concerns with the proposed order, as that email chain should hopefully help clarify my position. While I appreciate that Ms. Flumian added a few redlined edits to the proposed Order that she filed yesterday, I am still concerned about the proposed Order as a whole.

Throughout the Order, there are a number of statements of fact that I do not believe are appropriate or necessary. The motion at issue was simply a Motion for Protective Order regarding whether the minor Jane Doe's deposition can go forward. The motion was not a dispositive motion in any way. I therefore do not believe it is appropriate or necessary for the proposed Order to contain numerous statements of fact, when many of those statements are disputed or unsupported by the record.

Additionally, the Order does not include any analysis on Defendant's position that reasonable accommodations could be imposed that would allow the deposition to go forward in some capacity.

It is my position that the Order should simply set forth a concise ruling based on the applicable law governing protective orders, without making statements about the facts of the case (especially considering those statements, as written in the proposed Order, present the facts as being undisputed), while also ruling on Defendant's position that there are reasonable accommodations that could be imposed to allow the deposition to go forward. I believe that could be accomplished in a very concise Order or even a Form 4 Order.

Thank you for your consideration,  
Robert

 **Robert Kneece III**  
Shareholder  
PO Box 22129 | Charleston, SC 29413  
40 Calhoun Street, Suite 200 | Charleston, SC 29401  
843-576-2829 | Fax 843-577-1639  
rkneece@turnerpadget.com  
[Bio](#) | [vCard](#) | [Location](#)

---

**From:** Julia Flumian <jflumian@mcgowanhood.com>  
**Sent:** Tuesday, March 4, 2025 5:58 PM  
**To:** Van Slambrook, Dale E. Law Clerk (Payton Muller) <dvanlambrooklc@sccourts.org>

**Cc:** Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <[dvanslambrooksc@sccourts.org](mailto:dvanslambrooksc@sccourts.org)>; Kneece III, Robert E <[RKneece@TurnerPadget.com](mailto:RKneece@TurnerPadget.com)>

**Subject:** Re: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Payton,

Please be aware I e-filed my draft of the proposed order this evening. I previously provided an earlier draft to Mr. Kneece and have attempted to incorporate some of his requested changes.

Please let me know if you have any questions or concerns.

Regards,  
Julia

Julia M. Flumian  
McGowan Hood Felder & Phillips, LLC

843.268.4681 (direct)  
843.268.0251 (office)  
843.388.3194 (fax)  
10 Shem Drive, Suite 300  
Mount Pleasant, SC 29464

---

**From:** Van Slambrook, Dale E. Law Clerk (Payton Muller) <[dvanslambrooklc@sccourts.org](mailto:dvanslambrooklc@sccourts.org)>

**Date:** Tuesday, February 25, 2025 at 9:16 AM

**To:** Julia Flumian <[jflumian@mcgowanhood.com](mailto:jflumian@mcgowanhood.com)>

**Cc:** Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <[dvanslambrooksc@sccourts.org](mailto:dvanslambrooksc@sccourts.org)>, [rkneece@turnerpadget.com](mailto:rkneece@turnerpadget.com) <[rkneece@turnerpadget.com](mailto:rkneece@turnerpadget.com)>

**Subject:** 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Ms. Flumian,

Judge Van Slambrook asks that you prepare an Order which *grants* Plaintiff's Motion for Protective Order. Please include all procedural and factual history you feel is necessary and submit via e-filing within ten (10) days. Thank you!

Very Respectfully,

**Payton M. Muller, Esq.**

Law Clerk for The Honorable Dale E. Van Slambrook  
300-B California Avenue  
Moncks Corner, SC 29461  
Phone 843.719.4435

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From: Julia Flumian <jflumian@mcgowanhood.com>
Sent: Tuesday, March 4, 2025 4:46 PM
To: Kneece III, Robert E
Cc: Dan Luginbill; Kardish, Sandra M.; Beard, Gena G
Subject: Re: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Robert,
I understand. I am simply establishing a record for the Court.

Thanks,
Julia

Julia M. Flumian
McGowan Hood Felder & Phillips, LLC

843.268.4681 (direct)
843.268.0251 (office)
843.388.3194 (fax)
10 Shem Drive, Suite 300
Mount Pleasant, SC 29464

From: Kneece III, Robert E <RKneece@TurnerPadget.com>
Date: Tuesday, March 4, 2025 at 4:45 PM
To: Julia Flumian <jflumian@mcgowanhood.com>
Cc: Dan Luginbill <dluginbill@mcgowanhood.com>, Kardish, Sandra M. <SKardish@TurnerPadget.com>, Beard, Gena G <GBeard@TurnerPadget.com>
Subject: RE: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Julia,

Respectfully, my redlined changes would be to strike through virtually the entirety of the proposed Order as it is written, given my position that the Order mostly consists of inappropriate factual findings. If an Order was re-drafted in an appropriate manner, I'd be happy to be consider it.

-Robert

[Robert Kneece III](#)
Shareholder
PO Box 22129 | Charleston, SC 29413
40 Calhoun Street, Suite 200 | Charleston, SC 29401
843-576-2829 | Fax 843-577-1639
rkneece@turnerpadget.com
[Bio](#) | [vCard](#) | [Location](#)



From: Julia Flumian <jflumian@mcgowanhood.com>

Sent: Tuesday, March 4, 2025 4:29 PM

To: Kneece III, Robert E <RKneece@TurnerPadget.com>

Cc: Dan Luginbill <dluginbill@mcgowanhood.com>; Kardish, Sandra M. <SKardish@TurnerPadget.com>; Beard, Gena G <GBeard@TurnerPadget.com>

Subject: Re: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Robert,

May I take from this email that you are not going to provide me with any redline changes? I understand your position regarding what should be in the order and would refer you to the Court's instructions.

I just want to be sure I should not expect any redline changes when I submit the proposed order to the Court.

Thanks,

Julia

Julia M. Flumian

McGowan Hood Felder & Phillips, LLC

843.268.4681 (direct)

843.268.0251 (office)

843.388.3194 (fax)

10 Shem Drive, Suite 300

Mount Pleasant, SC 29464

From: Kneece III, Robert E <RKneece@TurnerPadget.com>

Date: Tuesday, March 4, 2025 at 4:24 PM

To: Julia Flumian <jflumian@mcgowanhood.com>

Cc: Dan Luginbill <dluginbill@mcgowanhood.com>, Kardish, Sandra M. <SKardish@TurnerPadget.com>, Beard, Gena G <GBeard@TurnerPadget.com>

Subject: RE: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Julia,

Sorry for the delay – I've been in depositions all day. I believe the Order should state that the judge has considered the applicable law and decided to grant the motion for protective order. I believe the Order should contain a ruling on defendant's position that reasonable accommodations could be made to allow for the deposition to go forward. I don't believe any of the Facts section is appropriate or necessary, nor are any of the other instances where the proposed Order purports to state what the facts of the case are.

Once an Order is filed, my client certainly reserves the right to file a Rule 59(e) motion on any basis it deems necessary, including the issue of reasonable accommodations to allow the deposition to proceed in some capacity.

Thanks,

Robert



Robert Kneece III
Shareholder
PO Box 22129 | Charleston, SC 29413
40 Calhoun Street, Suite 200 | Charleston, SC 29401
843-576-2829 | Fax 843-577-1639
rkneece@turnerpadget.com
[Bio](#) | [vCard](#) | [Location](#)

From: Julia Flumian <jflumian@mcgowanhood.com>
Sent: Tuesday, March 4, 2025 9:53 AM
To: Kneece III, Robert E <RKneece@TurnerPadget.com>
Cc: Dan Luginbill <dluginbill@mcgowanhood.com>; Kardish, Sandra M. <SKardish@TurnerPadget.com>; Beard, Gena G <GBeard@TurnerPadget.com>
Subject: Re: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Robert,
Would you like to provide me with your redline version? I sent it to you in Word for your convenience.

Regards,
Julia

Julia M. Flumian
McGowan Hood Felder & Phillips, LLC

843.268.4681 (direct)
843.268.0251 (office)
843.388.3194 (fax)
10 Shem Drive, Suite 300
Mount Pleasant, SC 29464

From: Kneece III, Robert E <RKneece@TurnerPadget.com>
Date: Monday, March 3, 2025 at 9:18 PM
To: Julia Flumian <jflumian@mcgowanhood.com>
Cc: Dan Luginbill <dluginbill@mcgowanhood.com>; Kardish, Sandra M. <SKardish@TurnerPadget.com>; Beard, Gena G <GBeard@TurnerPadget.com>
Subject: RE: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Julia,

Respectfully I do not believe the proposed order as written is appropriate for an order on a Motion for Protective Order.

The Facts section is not written as if it is a recap of the Plaintiff's disputed version of events; instead, it is written as if the judge is deciding the facts of the case. That is not appropriate, especially considering this is a ruling on a Motion for Protective Order and not a dispositive motion. Moreover, Judge Van Slambrook did not offer any commentary on the facts at the hearing or in his email asking for a proposed order. There are a number of statements within the Fact section that are disputed or not supported by the record that are presented as undisputed fact. I do not see how most, if not all, of the Fact section is necessary or related to the judge's ruling, and it would be improper for a judge to be making factual findings in this manner.

Similarly, the Analysis section contains improper factual findings, such as each of the sentences that begin "There is no dispute . . . ," and then go on to state facts that my client does not agree with.

Overall, it is my position that this proposed order is exceedingly broad and contains a number of inappropriate factual findings that are superfluous to the issue at hand – which is simply the issue of whether the judge would allow the deposition of Jane Doe to go forward. That ruling needs to include a ruling on the issue of whether there are reasonable accommodations that can be imposed on the deposition that would allow it to go forward in some capacity.

-Robert



Robert Kneece III
Shareholder
PO Box 22129 | Charleston, SC 29413
40 Calhoun Street, Suite 200 | Charleston, SC 29401
843-576-2829 | Fax 843-577-1639
rkneece@turnerpadget.com
[Bio](#) | [vCard](#) | [Location](#)

From: Julia Flumian <jflumian@mcgowanhood.com>
Sent: Monday, March 3, 2025 2:57 PM
To: Kneece III, Robert E <RKneece@TurnerPadget.com>
Cc: Dan Luginbill <dluginbill@mcgowanhood.com>; Kardish, Sandra M. <SKardish@TurnerPadget.com>; Beard, Gena G <GBeard@TurnerPadget.com>
Subject: FW: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Robert,
My draft of the proposed order in the above-referenced case is attached. I plan to submit it to Judge Van Slambrook for his review tomorrow. Please let me know if you have any questions or concerns.

Regards,
Julia

Julia M. Flumian
McGowan Hood Felder & Phillips, LLC

843.268.4681 (direct)
843.268.0251 (office)
843.388.3194 (fax)
10 Shem Drive, Suite 300
Mount Pleasant, SC 29464

From: Van Slambrook, Dale E. Law Clerk (Payton Muller) <dvanslambrooklc@sccourts.org>
Date: Tuesday, February 25, 2025 at 9:16 AM
To: Julia Flumian <jflumian@mcgowanhood.com>
Cc: Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <dvanslambrooksc@sccourts.org>, rkneece@turnerpadget.com <rkneece@turnerpadget.com>
Subject: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Ms. Flumian,

Judge Van Slambrook asks that you prepare an Order which *grants* Plaintiff's Motion for Protective Order. Please include all procedural and factual history you feel is necessary and submit via e-filing within ten (10) days. Thank you!

Very Respectfully,

Payton M. Muller, Esq.

Law Clerk for The Honorable Dale E. Van Slambrook

300-B California Avenue

Moncks Corner, SC 29461

Phone 843.719.4435

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|                                              |   |                                     |
|----------------------------------------------|---|-------------------------------------|
| STATE OF SOUTH CAROLINA                      | ) | IN THE COURT OF COMMON PLEAS        |
|                                              | ) | FIFTEENTH JUDICIAL CIRCUIT          |
| COUNTY OF HORRY                              | ) | CASE NO.: 2023-CP-26-02424          |
|                                              | ) |                                     |
| Mother Doe and Father Doe, Individually And  | ) |                                     |
| as the Parents and Natural Guardians of Jane | ) |                                     |
| Doe, a minor,                                | ) |                                     |
|                                              | ) | <b>ORDER GRANTING PLAINTIFF'S</b>   |
| <i>Plaintiffs,</i>                           | ) | <b>REQUEST FOR PROTECTIVE ORDER</b> |
|                                              | ) |                                     |
| v.                                           | ) |                                     |
|                                              | ) |                                     |
| Palmetto Preschool & Learning Center, LLC,   | ) |                                     |
|                                              | ) |                                     |
| <i>Defendant.</i>                            | ) |                                     |
|                                              | ) |                                     |
|                                              | ) |                                     |

---

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), SCRCF; *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!**

---

The Honorable Dale E. Van Slambrook  
Circuit Court Judge

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

---

<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.

## FORM 4

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

## JUDGMENT IN A CIVIL CASE

CASE NO. 2023-CP-26-02424

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

Palmetto Preschool & Learning Center,  
LLC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: The Court.

Attorney for : ☐ Plaintiff ☐ Defendant  
or  
☐ Self-Represented Litigant

## DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

## ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk :

## INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

| Judgment in Favor of<br>(List name(s) below) | Judgment Against<br>(List name(s) below) | Judgment Amount To be<br>Enrolled<br>(List amount(s) below) |
|----------------------------------------------|------------------------------------------|-------------------------------------------------------------|
|                                              |                                          |                                                             |
|                                              |                                          |                                                             |

|                                                                                                           |  |  |
|-----------------------------------------------------------------------------------------------------------|--|--|
|                                                                                                           |  |  |
| If applicable, describe the property, including tax map information and address, referenced in the order: |  |  |

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

**Note: Title abstractors and researchers should refer to the official court order for judgment details.**

**E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.**

|                     |            |      |
|---------------------|------------|------|
|                     | 2781       |      |
| Circuit Court Judge | Judge Code | Date |

### For Clerk of Court Office Use Only

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

|                                  |                                  |
|----------------------------------|----------------------------------|
|                                  |                                  |
|                                  |                                  |
| ATTORNEY(S) FOR THE PLAINTIFF(S) | ATTORNEY(S) FOR THE DEFENDANT(S) |
|                                  | CLERK OF COURT                   |

### Court Reporter:

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

### ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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## Horry Common Pleas

**Case Caption:** Mother Doe , plaintiff, et al VS Palmetto Preschool & Learning Center LLC

**Case Number:** 2023CP2602424

**Type:** Order/Protective Order

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge  
#2781

|                            |   |                                   |
|----------------------------|---|-----------------------------------|
| STATE OF SOUTH CAROLINA    | ) | IN THE COURT OF COMMON PLEAS      |
|                            | ) |                                   |
| COUNTY OF HORRY            | ) | Docket No.: 2023-CP-26-02424      |
| MOTHER DOE AND FATHER DOE, | ) |                                   |
| INDIVIDUALLY AND AS THE    | ) |                                   |
| PARENTS AND NATURAL        | ) |                                   |
| GUARDIANS OF JANE DOE, A   | ) | <b>DEFENDANT'S MOTION TO</b>      |
| MINOR,                     | ) | <b>RECONSIDER THE COURT'S</b>     |
|                            | ) | <b>ORDER GRANTING PLAINTIFF'S</b> |
|                            | ) | <b>REQUEST FOR PROTECTIVE</b>     |
| Plaintiffs,                | ) | <b>ORDER</b>                      |
|                            | ) |                                   |
| v.                         | ) |                                   |
| PALMETTO PRESCHOOL &       |   |                                   |
| LEARNING CENTER, LLC,      |   |                                   |
| Defendant.                 |   |                                   |

YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorney for Defendant Palmetto Preschool & Learning Center, LLC ("Defendant"), will move before the presiding Judge of the Circuit Court for the County of Horry, pursuant to Rule 59(e), South Carolina Rules of Civil Procedure, for an order reconsidering, altering, and/or amending the Order issued on March 14, 2025, granting Plaintiff's Request for Protective Order. The basis of this motion is that the order contains mistakes, errors, and erroneous conclusions of law.

### **PROCEDURAL HISTORY**

After a dispute arose as to whether Defendant could depose minor Jane Doe, Plaintiff's counsel filed a Motion for Protective Order Barring Deposition of Plaintiff Jane Doe. The hearing on that motion was held on February 24, 2025 via WebEx before the Honorable Dale E. Van Slambrook. On February 25, 2025, Judge Van Slambrook's law clerk emailed counsel for the parties and asked Plaintiff's counsel to "prepare an Order which *grants* Plaintiff's Motion for Protective Order. Please include all procedural and factual history you feel is necessary and submit via e-filing within ten (10) days." (emphasis in original). On March 3, 2025, Plaintiff's counsel

emailed undersigned Defendant's counsel a draft of a proposed order. Defendant's counsel responded via email that same day, stating his position that the proposed order was inappropriately written. Specifically, Defendant's counsel noted that the Facts section of the proposed order was presented as if the judge was deciding the facts of the case, which Defendant's counsel noted was inappropriate. Defendant's counsel also stated that the proposed order contained improper factual findings, including references to supposedly undisputed facts that were actually disputed or unsupported. The emails between Defendant's counsel and Plaintiff's counsel regarding the proposed order are attached as **Exhibit 1**. Defendant's counsel's arguments as stated in those emails are incorporated herein.

On March 4, 2025, Plaintiff's counsel e-filed a proposed Order and emailed Judge Van Slambrook's law clerk about the proposed order. The following day, Defendant's counsel replied to that email and noted Defendant's concerns with the proposed order. Defendant's counsel noted that "[t]hroughout the Order, there are a number of statements of fact that I do not believe are appropriate or necessary." Defendant's counsel stated "It is my position that the Order should simply set forth a concise ruling based on the applicable law governing protective orders, without making statements about the facts of the case (especially considering those statements, as written in the proposed Order, present the facts as being undisputed), while also ruling on Defendant's position that there are reasonable accommodations that could be imposed to allow the deposition to go forward. I believe that could be accomplished in a very concise Order or even a Form 4 Order." That email chain is attached as **Exhibit 2**, and Defendant's counsel's argument as stated in that email chain are incorporated herein.

Judge Van Slambrook's Order was entered on March 14, 2025. That Order was not identical to the proposed Order filed by Plaintiff's counsel; however, there were large portions of the proposed order that were incorporated into the filed Order.

### ANALYSIS

While the filed Order contains a much narrower Facts section when compared to Plaintiff's proposed order, there are still unsupported or disputed factual findings within the filed Order, including the following:

1. The Facts section of the Order includes the statement "On or about August 27, 2020, Jane Doe told Mother Doe that another minor child enrolled at Defendant Palmetto Preschool sexually assaulted Jane Doe."

a. Mother Doe testified in her deposition that she does "not recall the date" when this conversation took place, and later testified "[m]y sense is that it was late August." **Mother Doe Deposition 23:7-12, Exhibit 3.**

b. Mother Doe did not testify that Jane Doe used the terms "sexual assault." **Mother Doe Deposition 23:22-24:5.**

2. The Analysis Section of the filed Order contains the statement that "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."

a. This is not an accurate summary of the 30(b)(6) deposition testimony, which has never been provided to the Court. **See 30(b)(6) Deposition of Palmetto Preschool & Learning Center, LLC 75:10-76:15, Exhibit 4.** The Court had never been presented any evidence or testimony upon which to make this factual assertion.

3. The Analysis Section of the filed Order states "[R]epresentatives 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."

a. No evidence on this issue was ever presented to the Court for the Court to comment upon.

b. There is no evidence of a "video" of an interview of Jane Doe by Defendant. Instead, during the 30(b)(6) deposition of Palmetto Preschool, Amber Rogers testified that Jennifer Cusack kept notes regarding her investigation of the alleged incident, which included conversations with individuals including Jane Doe; however, Amber

testified the computer containing those notes crashed and was disposed of prior to Palmetto Preschool knowing that any such notes might be needed in this matter, and prior to this lawsuit being filed. **See 30(b)(6) Deposition of Palmetto Preschool & Learning Center, LLC 68:4-69:25.** Palmetto Preschool was not contacted by the Department of Social Services about this purported incident until December 2021, well over a year after it allegedly occurred. **See 30(b)(6) Deposition of Palmetto Preschool & Learning Center, LLC 21:8-14**

c. It is unnecessary for the Court to comment on any alleged spoliation issue that is not before the Court, and on which the Court has never been presented any evidence. The Defendant adamantly disputes any alleged spoliation issue.

The inclusion of inaccurate or unsupported factual findings, or comments about the facts, within this Order is unnecessary, and could potentially allow one party to unfairly try to use such a ruling as “law of the case.” It is particularly unnecessary when the motion and order at issue pertain to a discovery dispute and not any dispositive motion.

The Order also partially based its finding that the deposition of Jane Doe was not relevant or necessary to the case on the fact that “the minor Jane Doe is not a party to the case and has not been identified as a witness by the Plaintiff.” Regardless of whether the Plaintiff chose to identify Jane Doe as a witness in Plaintiff’s interrogatories, she is unquestionably a witness to the facts. Parties do not get to “pick and choose” who is a witness simply because they may or may not want that individual to testify. To find otherwise would incentivize parties not to identify witnesses in discovery in an attempt to avoid having those individuals testify.

The Court also stated in its Order that “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.” Respectfully, Defendant fails to see how there could be liability

or damages in this matter if Jane Doe was not, in fact abused in the subject incident, and Defendant should therefore be entitled to take Jane Doe's deposition with reasonable accommodations. As noted in Defendant's brief in opposition to Plaintiff's motion, Courts from around the country have allowed such depositions to go forward with varying accommodations.

As such, Defendant respectfully requests the Court reconsider, alter, and/or amend its March 14, 2025 Order. As noted above, it is Defendant's position that the Court erroneously ruled that the deposition of Jane Doe was not reasonable and necessary, and furthermore erroneously ruled that no reasonable accommodations could be made to allow the deposition to go forward. Moreover, even if the Court were to still grant Plaintiff's motion for protective Order, Defendant respectfully requests that the Court reconsider, alter, and/or amend its order and issue a Form 4 Order without the factual findings or factual commentary discussed above, or any other findings or statements about facts in this case that have not been admitted or proven. Finally, in the event the Court still grants Plaintiff's motion for protective Order, given the Court's ruling that "[a] deposition of Ms. Myers is a reasonable alternative to discover the information sought from Jane Doe," Defendant would ask that the Defendant be allowed to revisit the issue of a deposition of Jane Doe depending on the outcome of any deposition of Ms. Myers.

Turner Padget Graham & Laney, P.A.

/s/ Robert E. Kneece III  
Robert E. Kneece III  
SC Bar No. 101279  
Post Office Box 22129  
Charleston, South Carolina 29413  
Direct: 843-576-2829  
Fax: 843-577-1639  
[RKneece@TurnerPadget.com](mailto:RKneece@TurnerPadget.com)

Charleston, South Carolina

March 24, 2025

ATTORNEYS FOR DEFENDANT

---

**From:** Julia Flumian <jflumian@mcgowanhood.com>  
**Sent:** Tuesday, March 4, 2025 4:46 PM  
**To:** Kneece III, Robert E  
**Cc:** Dan Luginbill; Kardish, Sandra M.; Beard, Gena G  
**Subject:** Re: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Robert,  
I understand. I am simply establishing a record for the Court.

Thanks,  
Julia

Julia M. Flumian  
McGowan Hood Felder & Phillips, LLC

843.268.4681 (direct)  
843.268.0251 (office)  
843.388.3194 (fax)  
10 Shem Drive, Suite 300  
Mount Pleasant, SC 29464

---

**From:** Kneece III, Robert E <RKneece@TurnerPadget.com>  
**Date:** Tuesday, March 4, 2025 at 4:45 PM  
**To:** Julia Flumian <jflumian@mcgowanhood.com>  
**Cc:** Dan Luginbill <dluginbill@mcgowanhood.com>, Kardish, Sandra M. <SKardish@TurnerPadget.com>, Beard, Gena G <GBeard@TurnerPadget.com>  
**Subject:** RE: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Julia,

Respectfully, my redlined changes would be to strike through virtually the entirety of the proposed Order as it is written, given my position that the Order mostly consists of inappropriate factual findings. If an Order was re-drafted in an appropriate manner, I'd be happy to be consider it.

-Robert

Robert Kneece III  
Shareholder  
PO Box 22129 | Charleston, SC 29413  
40 Calhoun Street, Suite 200 | Charleston, SC 29401  
843-576-2829 | Fax 843-577-1639  
rkneece@turnerpadget.com  
[Bio](#) | [vCard](#) | [Location](#)



**From:** Julia Flumian <jflumian@mcgowanhood.com>

**Sent:** Tuesday, March 4, 2025 4:29 PM

**To:** Kneece III, Robert E <RKneece@TurnerPadget.com>

**Cc:** Dan Luginbill <dluginbill@mcgowanhood.com>; Kardish, Sandra M. <SKardish@TurnerPadget.com>; Beard, Gena G <GBeard@TurnerPadget.com>

**Subject:** Re: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Robert,

May I take from this email that you are not going to provide me with any redline changes? I understand your position regarding what should be in the order and would refer you to the Court's instructions.

I just want to be sure I should not expect any redline changes when I submit the proposed order to the Court.

Thanks,

Julia

Julia M. Flumian

McGowan Hood Felder & Phillips, LLC

843.268.4681 (direct)

843.268.0251 (office)

843.388.3194 (fax)

10 Shem Drive, Suite 300

Mount Pleasant, SC 29464

---

**From:** Kneece III, Robert E <[RKneece@TurnerPadget.com](mailto:RKneece@TurnerPadget.com)>

**Date:** Tuesday, March 4, 2025 at 4:24 PM

**To:** Julia Flumian <[jflumian@mcgowanhood.com](mailto:jflumian@mcgowanhood.com)>

**Cc:** Dan Luginbill <[dluginbill@mcgowanhood.com](mailto:dluginbill@mcgowanhood.com)>, Kardish, Sandra M. <[SKardish@TurnerPadget.com](mailto:SKardish@TurnerPadget.com)>, Beard, Gena G <[GBeard@TurnerPadget.com](mailto:GBeard@TurnerPadget.com)>

**Subject:** RE: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Julia,

Sorry for the delay – I've been in depositions all day. I believe the Order should state that the judge has considered the applicable law and decided to grant the motion for protective order. I believe the Order should contain a ruling on defendant's position that reasonable accommodations could be made to allow for the deposition to go forward. I don't believe any of the Facts section is appropriate or necessary, nor are any of the other instances where the proposed Order purports to state what the facts of the case are.

Once an Order is filed, my client certainly reserves the right to file a Rule 59(e) motion on any basis it deems necessary, including the issue of reasonable accommodations to allow the deposition to proceed in some capacity.

Thanks,

Robert

Robert Kneece III  
 Shareholder  
 PO Box 22129 | Charleston, SC 29413  
 40 Calhoun Street, Suite 200 | Charleston, SC 29401  
 843-576-2829 | Fax 843-577-1639  
 rkneece@turnerpadget.com  
[Bio](#) | [vCard](#) | [Location](#)

**From:** Julia Flumian <[jflumian@mcgowanhood.com](mailto:jflumian@mcgowanhood.com)>  
**Sent:** Tuesday, March 4, 2025 9:53 AM  
**To:** Kneece III, Robert E <[RKneece@TurnerPadget.com](mailto:RKneece@TurnerPadget.com)>  
**Cc:** Dan Luginbill <[dluginbill@mcgowanhood.com](mailto:dluginbill@mcgowanhood.com)>; Kardish, Sandra M. <[SKardish@TurnerPadget.com](mailto:SKardish@TurnerPadget.com)>; Beard, Gena G <[GBeard@TurnerPadget.com](mailto:GBeard@TurnerPadget.com)>  
**Subject:** Re: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Robert,  
 Would you like to provide me with your redline version? I sent it to you in Word for your convenience.

Regards,  
 Julia

Julia M. Flumian  
 McGowan Hood Felder & Phillips, LLC

843.268.4681 (direct)  
 843.268.0251 (office)  
 843.388.3194 (fax)  
 10 Shem Drive, Suite 300  
 Mount Pleasant, SC 29464

**From:** Kneece III, Robert E <[RKneece@TurnerPadget.com](mailto:RKneece@TurnerPadget.com)>  
**Date:** Monday, March 3, 2025 at 9:18 PM  
**To:** Julia Flumian <[jflumian@mcgowanhood.com](mailto:jflumian@mcgowanhood.com)>  
**Cc:** Dan Luginbill <[dluginbill@mcgowanhood.com](mailto:dluginbill@mcgowanhood.com)>; Kardish, Sandra M. <[SKardish@TurnerPadget.com](mailto:SKardish@TurnerPadget.com)>; Beard, Gena G <[GBeard@TurnerPadget.com](mailto:GBeard@TurnerPadget.com)>  
**Subject:** RE: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Julia,

Respectfully I do not believe the proposed order as written is appropriate for an order on a Motion for Protective Order.

The Facts section is not written as if it is a recap of the Plaintiff's disputed version of events; instead, it is written as if the judge is deciding the facts of the case. That is not appropriate, especially considering this is a ruling on a Motion for Protective Order and not a dispositive motion. Moreover, Judge Van Slambrook did not offer any commentary on the facts at the hearing or in his email asking for a proposed order. There are a number of statements within the Fact section that are disputed or not supported by the record that are presented as undisputed fact. I do not see how most, if not all, of the Fact section is necessary or related to the judge's ruling, and it would be improper for a judge to be making factual findings in this manner.

Similarly, the Analysis section contains improper factual findings, such as each of the sentences that begin "There is no dispute . . . ," and then go on to state facts that my client does not agree with.

Overall, it is my position that this proposed order is exceedingly broad and contains a number of inappropriate factual findings that are superfluous to the issue at hand – which is simply the issue of whether the judge would allow the deposition of Jane Doe to go forward. That ruling needs to include a ruling on the issue of whether there are reasonable accommodations that can be imposed on the deposition that would allow it to go forward in some capacity.

-Robert



Robert Kneece III  
Shareholder  
PO Box 22129 | Charleston, SC 29413  
40 Calhoun Street, Suite 200 | Charleston, SC 29401  
843-576-2829 | Fax 843-577-1639  
rkneece@turnerpadget.com  
[Bio](#) | [vCard](#) | [Location](#)

---

**From:** Julia Flumian <[jflumian@mcgowanhood.com](mailto:jflumian@mcgowanhood.com)>  
**Sent:** Monday, March 3, 2025 2:57 PM  
**To:** Kneece III, Robert E <[RKneece@TurnerPadget.com](mailto:RKneece@TurnerPadget.com)>  
**Cc:** Dan Luginbill <[dluginbill@mcgowanhood.com](mailto:dluginbill@mcgowanhood.com)>; Kardish, Sandra M. <[SKardish@TurnerPadget.com](mailto:SKardish@TurnerPadget.com)>; Beard, Gena G <[GBear@TurnerPadget.com](mailto:GBear@TurnerPadget.com)>  
**Subject:** FW: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Robert,  
My draft of the proposed order in the above-referenced case is attached. I plan to submit it to Judge Van Slambrook for his review tomorrow. Please let me know if you have any questions or concerns.

Regards,  
Julia

Julia M. Flumian  
McGowan Hood Felder & Phillips, LLC

843.268.4681 (direct)  
843.268.0251 (office)  
843.388.3194 (fax)  
10 Shem Drive, Suite 300  
Mount Pleasant, SC 29464

---

**From:** Van Slambrook, Dale E. Law Clerk (Payton Muller) <[dvanslambrooklc@sccourts.org](mailto:dvanslambrooklc@sccourts.org)>  
**Date:** Tuesday, February 25, 2025 at 9:16 AM  
**To:** Julia Flumian <[jflumian@mcgowanhood.com](mailto:jflumian@mcgowanhood.com)>  
**Cc:** Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <[dvanslambrooksc@sccourts.org](mailto:dvanslambrooksc@sccourts.org)>, [rkneece@turnerpadget.com](mailto:rkneece@turnerpadget.com) <[rkneece@turnerpadget.com](mailto:rkneece@turnerpadget.com)>  
**Subject:** 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Ms. Flumian,

Judge Van Slambrook asks that you prepare an Order which *grants* Plaintiff's Motion for Protective Order. Please include all procedural and factual history you feel is necessary and submit via e-filing within ten (10) days. Thank you!

Very Respectfully,

**Payton M. Muller, Esq.**

Law Clerk for The Honorable Dale E. Van Slambrook  
300-B California Avenue  
Moncks Corner, SC 29461  
Phone 843.719.4435

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ELECTRONICALLY FILED - 2025 Mar 24 5:33 PM - Horry - COMMON PLEAS - CASE#2023CP2602424

From: Kneece III, Robert E
Sent: Wednesday, March 5, 2025 11:21 AM
To: Julia Flumian; Van Slambrook, Dale E. Law Clerk (Payton Muller)
Cc: Van Slambrook, Dale E. Secretary (Elizabeth Atkins); Beard, Gena G; Kardish, Sandra M.
Subject: RE: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order
Attachments: Re: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Good morning,

I am writing regarding the draft of the proposed Order Granting Plaintiff's Request for Protective Order that was filed by Plaintiff yesterday.

I have attached an email chain between Plaintiff's counsel and I regarding my concerns with the proposed order, as that email chain should hopefully help clarify my position. While I appreciate that Ms. Flumian added a few redlined edits to the proposed Order that she filed yesterday, I am still concerned about the proposed Order as a whole.

Throughout the Order, there are a number of statements of fact that I do not believe are appropriate or necessary. The motion at issue was simply a Motion for Protective Order regarding whether the minor Jane Doe's deposition can go forward. The motion was not a dispositive motion in any way. I therefore do not believe it is appropriate or necessary for the proposed Order to contain numerous statements of fact, when many of those statements are disputed or unsupported by the record.

Additionally, the Order does not include any analysis on Defendant's position that reasonable accommodations could be imposed that would allow the deposition to go forward in some capacity.

It is my position that the Order should simply set forth a concise ruling based on the applicable law governing protective orders, without making statements about the facts of the case (especially considering those statements, as written in the proposed Order, present the facts as being undisputed), while also ruling on Defendant's position that there are reasonable accommodations that could be imposed to allow the deposition to go forward. I believe that could be accomplished in a very concise Order or even a Form 4 Order.

Thank you for your consideration,
Robert

 **Robert Kneece III**
Shareholder
PO Box 22129 | Charleston, SC 29413
40 Calhoun Street, Suite 200 | Charleston, SC 29401
843-576-2829 | Fax 843-577-1639
rkneece@turnerpadget.com
[Bio](#) | [vCard](#) | [Location](#)

From: Julia Flumian <jflumian@mcgowanhood.com>
Sent: Tuesday, March 4, 2025 5:58 PM
To: Van Slambrook, Dale E. Law Clerk (Payton Muller) <dvanlambrooklc@sccourts.org>

Cc: Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <dvanslambrooksc@sccourts.org>; Kneece III, Robert E <RKneece@TurnerPadget.com>

Subject: Re: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Payton,

Please be aware I e-filed my draft of the proposed order this evening. I previously provided an earlier draft to Mr. Kneece and have attempted to incorporate some of his requested changes.

Please let me know if you have any questions or concerns.

Regards,
Julia

Julia M. Flumian
McGowan Hood Felder & Phillips, LLC

843.268.4681 (direct)
843.268.0251 (office)
843.388.3194 (fax)
10 Shem Drive, Suite 300
Mount Pleasant, SC 29464

From: Van Slambrook, Dale E. Law Clerk (Payton Muller) <dvanslambrooklc@sccourts.org>

Date: Tuesday, February 25, 2025 at 9:16 AM

To: Julia Flumian <jflumian@mcgowanhood.com>

Cc: Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <dvanslambrooksc@sccourts.org>, rkneece@turnerpadget.com <rkneece@turnerpadget.com>

Subject: 2023CP2602424 - Doe v. Palmetto Preschool - 2/24/2025 - Motion for Protective Order

Ms. Flumian,

Judge Van Slambrook asks that you prepare an Order which *grants* Plaintiff's Motion for Protective Order. Please include all procedural and factual history you feel is necessary and submit via e-filing within ten (10) days. Thank you!

Very Respectfully,

Payton M. Muller, Esq.

Law Clerk for The Honorable Dale E. Van Slambrook
300-B California Avenue
Moncks Corner, SC 29461
Phone 843.719.4435

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

MOTHER DOE AND FATHER DOE, : CASE NO.  
individually and as the parents 2023-CP-26-02424  
and natural guardians of JANE :  
DOE, a minor,  
Plaintiffs, :  
vs.  
PALMETTO PRESCHOOL & LEARNING :  
CENTER, LLC,  
Defendants :

-----  
DEPONENT: [REDACTED]

DATE: NOVEMBER 15, 2024

TIME: 1:00 p.m.

LOCATION: MCGOWAN, HOOD, FELDER, & PHILLIPS, LLC  
10 SHEM DRIVE, SUITE 300  
MOUNT PLEASANT, SC 29464

REPORTED BY: CAROL T. LUCIC, RPR, RMR

MAGNA LEGAL SERVICES

866-624-6221

www.MagnaLS.com

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1 Q. Do you know when this conversation took  
2 place?

3 A. It was after school hours. I can't recall  
4 if it was right at bedtime or just after dinner,  
5 but it was after we had left the school. We were  
6 already at home.

7 Q. Do you know a particular date that it  
8 occurred on?

9 A. I do not recall the date.

10 Q. Do you have any sense of the week or the  
11 month when this would have occurred?

12 A. My sense is that it was late August.

13 Q. What leads you to that?

14 A. That's just how I remember it.

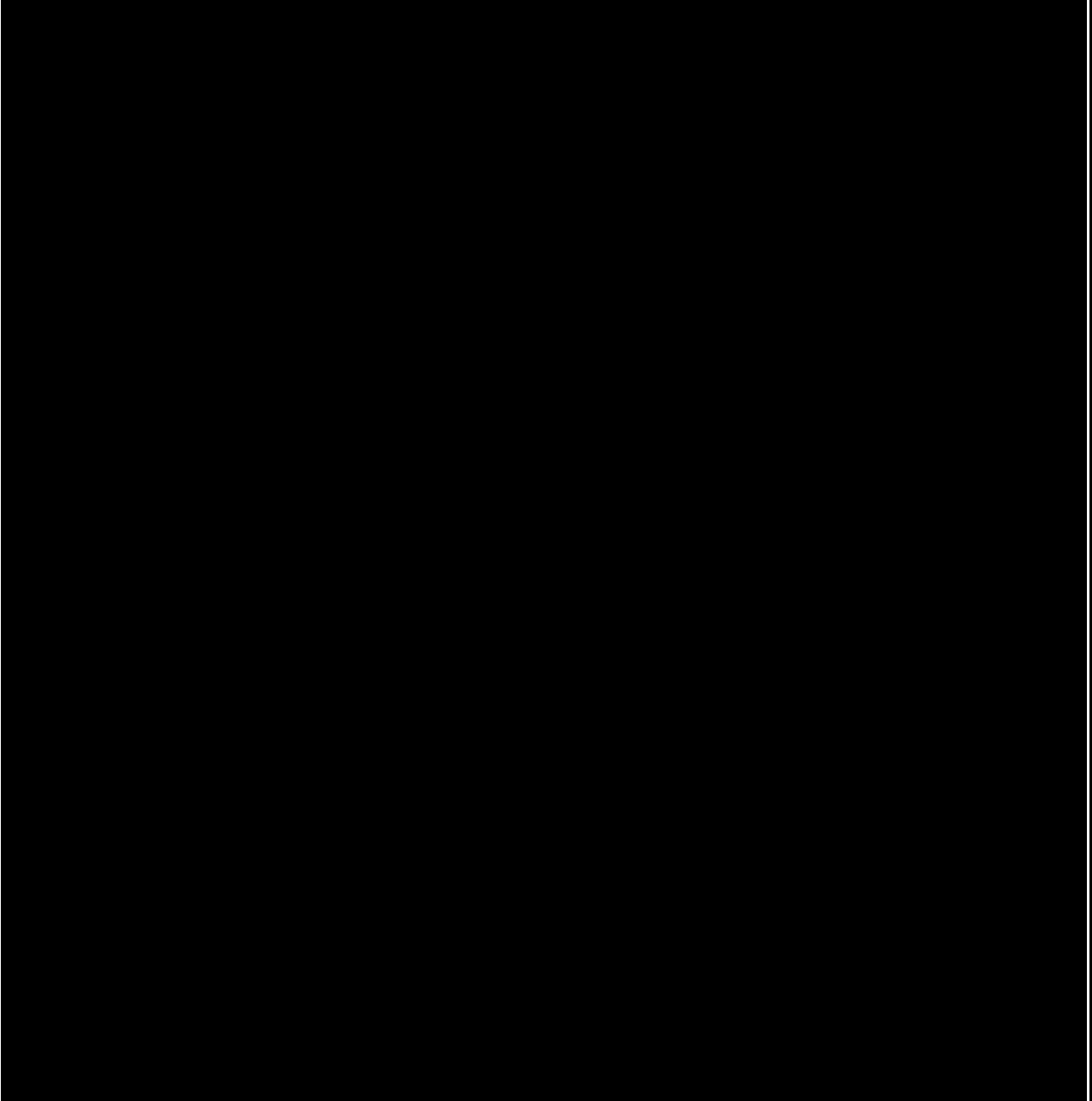
15 Q. Do you have any way to go back and place  
16 when this happened such as did you make any  
17 particular phone calls that you can recall or was  
18 there anything going on in your life around that  
19 same time that would allow you to pinpoint when you  
20 all had this conversation?

21 A. No.

22 Q. So what did [REDACTED] tell you in this  
23 conversation?

24 A. She told me that her and [REDACTED] were  
25 bathroom buddies and that [REDACTED] had gone into the

1 bathroom with her, but then came into the stall  
2 itself and closed the stall door, and [REDACTED] said  
3 that she tried to put the toilet paper and the  
4 cardboard piece inside of the toilet paper roll in  
5 her vagina area and was pulling at her underwear.



STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF HORRY ) FIFTEENTH JUDICIAL CIRCUIT

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

Plaintiffs, )

v. )

Palmetto Preschool & Learning )  
Center, LLC, )

Defendant. )

Case No.:  
2023-CP-26-02424

\*\*\*\*\*

VIDEOTAPED DEPOSITION OF:

AMBER ROGERS

DATE TAKEN: Tuesday, January 7, 2025

TIME: 12:55 P.M.

PLACE: Turner Padget Graham & Laney  
3833 Mayfair Street  
Myrtle Beach, South Carolina

REPORTED BY: MARY ANN RIDENOUR, RPR  
and Notary Public

1     **Plaintiff's 7. This is a document that I received**  
2     **earlier today on my drive up here.**

3             (Plaaintiff's Exhibit No. 7 marked for  
4     identification.)

5     BY MS. FLUMIAN:

6             **Q. Have you seen this document before?**

7             A. I have.

8             **Q. Okay. It's not Bates'd, so I can't reference**  
9     **it. But can you tell me what this is?**

10            A. This is a on-site visit or a deficiency  
11     citation for childcare facilities.

12            **Q. And in this -- when did you first see this**  
13     **document?**

14            A. On 12/3/21.

15            **Q. So you were aware of this document when you**  
16     **previously helped to answer plaintiff's discovery; is**  
17     **that correct?**

18            A. Yes. However, this was made anonymously and  
19     was not connected at the beginning of this. We did not  
20     have these connected --

21            **Q. How --**

22            A. -- because the case was filed as Jane Doe.

23            **Q. -- how do you know that this allegation that**  
24     **is Plaintiff's Exhibit 7 was anonymous?**

25            A. I'm sorry? Say that again.

1 any major conversation she had dealt with or anything  
2 she had to do on her computer.

3 **Q. What do you mean?**

4 A. She used to type up notes about, I met with  
5 this parent today about the fact that their child bit.  
6 You know, the parent's aware. Or, I met with this  
7 parent today. They complained that their child got bit  
8 for the second time. I reassured them that this is  
9 normal in the toddler program and provided them with,  
10 you know, articles on biting or whatnot. She keeps,  
11 sort of, a running log of major conversations that she  
12 had with parents or teachers.

13 **Q. Have you accessed that log?**

14 A. No. Shortly after Jen moved into her new  
15 position and the director took over, that computer  
16 crashed. We were not able to retrieve anything from  
17 that computer. And it was before we even knew that --  
18 that this was a lawsuit or that she was going to need  
19 any of those things, so none of it was printed.

20 **Q. What kind of computer was it?**

21 A. I am not sure.

22 **Q. PC or Mac?**

23 A. It would have -- oh, no, we don't use any  
24 Macs. It would have been a PC.

25 **Q. And do you still have possession of it?**

1 A. We do not.

2 Q. Did she back it up in any way, shape or  
3 form?

4 A. She did not.

5 Q. Do you have any documentation to back up that  
6 this computer crashed?

7 A. Not that I am aware of. I'm sure there was  
8 probably a purchase of a new computer right around the  
9 time that it crashed, but nothing that I can 100  
10 percent point you to at this point in time.

11 Q. And did you-all attempt to recover any  
12 information from that computer?

13 A. Karla attempted to recover it. But we did  
14 not have any professional recovery. At that point in  
15 time, we thought there was nothing on it that would  
16 need -- that would be important enough to  
17 professionally recover.

18 Q. And I apologize because you might have  
19 already just answered this. Do you still have  
20 possession of it?

21 A. We do not.

22 Q. Where is it, if you know?

23 A. I believe it was just chunked in our  
24 dumpster. Because once we couldn't pull anything off  
25 of it, there was also nothing to clear.

1           **Q.    -- about what happened? And -- and you might**  
2   **have been the best to understand how to do it in a way**  
3   **that would have been beneficial to the child?**

4           MR. KNEECE: Objection to form.

5   BY MS. FLUMIAN:

6           A.   Possibly.

7           **Q.   And -- but that did not happen?**

8           A.   It did not. That was not my role at the  
9   preschool at that time.

10          **Q.   Did you -- what is your understanding as to**  
11   **the conversation that Jen had with Amy Annable?**

12          A.   That the way -- I wish -- I wish I had a  
13   picture.

14          **Q.   I have the layout, if that's helpful.**

15          A.   It's not. When a teacher is supervising a  
16   bathroom duty for a group of students that are in a  
17   bathroom that has stalls, they put themselves at the  
18   door so that they can monitor the children who have  
19   already been to the bathroom or who are waiting in the  
20   bathroom. I assume everybody's been to public school.  
21   It's much like -- like a public school would do where  
22   you're monitoring some kids in the hall and some kids  
23   are in the bathroom. And Amy was in between monitoring  
24   the group that was in the hall while also monitoring  
25   the bathroom as the kids came out of stalls. When, you

1 know, she was looking this way, [REDACTED] came -- I'm  
2 sorry -- [REDACTED] came out of the stall. And [REDACTED] put  
3 paper towels or toilet paper -- there's been so much  
4 mis- -- whatever -- but I believe she said paper towels  
5 at the time -- put paper towels down [REDACTED] pants.  
6 [REDACTED] said, No. At the same time, Amy said, No,  
7 corrected the behavior with [REDACTED]. And that was the end  
8 of it. [REDACTED] was not upset. [REDACTED] did not  
9 require any other, like, comforting or anything. It  
10 was -- while she did not see her immediately do it, she  
11 saw her while she still had her hands, like, cramming  
12 stuff down her pants. In Amy's estimation, it was a  
13 typical childhood goofing off and not any kind of  
14 sexual content or inappropriateness, no effort to touch  
15 any private parts.

16 Q. I'm now going to mark what will be  
17 Plaintiff's 11, I think. I apologize in advance.  
18 These documents are not Bates'd. They were produced by  
19 your first lawyer. I will tell you, I have altered  
20 them in one single way. All of these documents were  
21 produced to me. Forgive me; I'm trying to refrain from  
22 editorializing. Every other page was blank, so I have  
23 altered them in so much as I have removed all the blank  
24 pages.

25 A. Okay.

## FORM 4

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

## JUDGMENT IN A CIVIL CASE

CASE NO. 2023-CP-26-02424

MOTHER DOE AND FATHER DOE, Individually  
and as the Parents and Natural Guardians of JANE  
DOE, a Minor

PALMETTO PRESCHOOL & LEARNING  
CENTER, LLC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: The Court.

Attorney for : ☐ Plaintiff ☐ Defendant  
or  
☐ Self-Represented Litigant

## DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

This matter came before the Court on Defendant Palmetto Preschool & Learning Center, LLC's Motion to Reconsider, filed on March 24, 2025, which asks this Court to reconsider its ruling in its Order dated March 14, 2025 which granted Plaintiff's Motion for Protective Order. The Court timely received a copy of the Motion for Reconsideration.

"The purpose of Rule 59(e), SCRPC, to alter or amend the judgment is to request the trial judge to reconsider the matters properly encompassed in a decision on the merits." *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). "A party may wish to file such motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised but not rule on, in order to preserve it for appellate review." *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) (emphasis in original). "A party cannot use a motion to reconsider to present an issue he could have raised prior to judgment but did not." *Anderson Memorial Hosp., Inc., v. Hagen*, 313 S.C. 389, 434 S.E.2d 268 (1993); See also *Arnold*, 309 S.C. at 172-173, 420 S.E.2d at 842.

EXHIBIT M

After consideration of the record, as well as the various interests balanced by the Court at the time of the ruling, Defendant's Motion to Reconsider is heard and is respectfully Denied. This motion is disposed of without the necessity of a hearing and is decided on the record and briefs.

#### ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk :

| INFORMATION FOR THE JUDGMENT INDEX                                                                                                                                                                           |                                          |                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|-------------------------------------------------------------|
| Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below. |                                          |                                                             |
| Judgment in Favor of<br>(List name(s) below)                                                                                                                                                                 | Judgment Against<br>(List name(s) below) | Judgment Amount To be<br>Enrolled<br>(List amount(s) below) |
|                                                                                                                                                                                                              |                                          | \$                                                          |
|                                                                                                                                                                                                              |                                          | \$                                                          |
|                                                                                                                                                                                                              |                                          | \$                                                          |
| If applicable, describe the property, including tax map information and address, referenced in the order:                                                                                                    |                                          |                                                             |

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

**Note: Title abstractors and researchers should refer to the official court order for judgment details.**

**E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.**

|                     |            |      |
|---------------------|------------|------|
|                     | 2781       |      |
| Circuit Court Judge | Judge Code | Date |

#### For Clerk of Court Office Use Only

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ATTORNEY(S) FOR THE PLAINTIFF(S)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)  
\_\_\_\_\_  
CLERK OF COURT

**Court Reporter:**

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

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.



## Horry Common Pleas

**Case Caption:** Mother Doe , plaintiff, et al VS Palmetto Preschool & Learning Center LLC

**Case Number:** 2023CP2602424

**Type:** Order/Other

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge  
#2781

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

MOTHER DOE AND FATHER DOE, : CASE NO.  
individually and as the parents 2023-CP-26-02424  
and natural guardians of JANE :  
DOE, a minor,  
Plaintiffs, :  
vs.  
PALMETTO PRESCHOOL & LEARNING :  
CENTER, LLC,  
Defendants :

-----  
DEPONENT: [REDACTED]

DATE: NOVEMBER 15, 2024

TIME: 1:00 p.m.

LOCATION: MCGOWAN, HOOD, FELDER, & PHILLIPS, LLC  
10 SHEM DRIVE, SUITE 300  
MOUNT PLEASANT, SC 29464

REPORTED BY: CAROL T. LUCIC, RPR, RMR

MAGNA LEGAL SERVICES

866-624-6221

[www.MagnaLS.com](http://www.MagnaLS.com)

EXHIBIT N



1           Q.     Do you know when this conversation took  
2 place?

3           A.     It was after school hours. I can't recall  
4 if it was right at bedtime or just after dinner,  
5 but it was after we had left the school. We were  
6 already at home.

7           Q.     Do you know a particular date that it  
8 occurred on?

9           A.     I do not recall the date.

10          Q.     Do you have any sense of the week or the  
11 month when this would have occurred?

12          A.     My sense is that it was late August.

13          Q.     What leads you to that?

14          A.     That's just how I remember it.

15          Q.     Do you have any way to go back and place  
16 when this happened such as did you make any  
17 particular phone calls that you can recall or was  
18 there anything going on in your life around that  
19 same time that would allow you to pinpoint when you  
20 all had this conversation?

21          A.     No.

22          Q.     So what did [REDACTED] tell you in this  
23 conversation?

24          A.     She told me that her and [REDACTED] were  
25 bathroom buddies and that [REDACTED] had gone into the

1 bathroom with her, but then came into the stall  
2 itself and closed the stall door, and [REDACTED] said  
3 that she tried to put the toilet paper and the  
4 cardboard piece inside of the toilet paper roll in  
5 her vagina area and was pulling at her underwear.

6 Q. Do you recall any other details that  
7 [REDACTED] told you about?

8 A. [REDACTED] was very upset and tearful during  
9 the conversation. She said that [REDACTED] was blocking  
10 the stall door, and she couldn't get out.

11 Q. We can take a break if you need to take a  
12 break.

13 A. We can continue.

14 Q. Did you understand who [REDACTED] was in terms  
15 of [REDACTED] last name?

16 A. No.

17 Q. Did you know who [REDACTED] was as in like when  
18 you would drop [REDACTED] off, would you recognize  
19 [REDACTED] by sight?

20 A. When she described the incident, she had  
21 to describe her to me because I didn't know who she  
22 was before that time, but once she described her to  
23 me I knew who she was.

24 Q. Do you know [REDACTED] parents?

25 A. I do not.

---

**Deposition of:**  
**AMBER ROGERS**

---

**STATE OF SOUTH CAROLINA Doe vs Palmetto Preschool**

**2023-CP-26-02424**

**January 07, 2025**

---



**Magnolia Reporting, LLC**

P.O. Box 61011

North Charleston, SC 29419

843.303.9141

[www.MagnoliaReporting.com](http://www.MagnoliaReporting.com)

EXHIBIT O

1     **Plaintiff's 7. This is a document that I received**  
2     **earlier today on my drive up here.**

3             (Plaintiff's Exhibit No. 7 marked for  
4     identification.)

5     BY MS. FLUMIAN:

6             **Q. Have you seen this document before?**

7             A. I have.

8             **Q. Okay. It's not Bates'd, so I can't reference**  
9     **it. But can you tell me what this is?**

10            A. This is a on-site visit or a deficiency  
11     citation for childcare facilities.

12            **Q. And in this -- when did you first see this**  
13     **document?**

14            A. On 12/3/21.

15            **Q. So you were aware of this document when you**  
16     **previously helped to answer plaintiff's discovery; is**  
17     **that correct?**

18            A. Yes. However, this was made anonymously and  
19     was not connected at the beginning of this. We did not  
20     have these connected --

21            **Q. How --**

22            A. -- because the case was filed as Jane Doe.

23            **Q. -- how do you know that this allegation that**  
24     **is Plaintiff's Exhibit 7 was anonymous?**

25            A. I'm sorry? Say that again.

1 any major conversation she had dealt with or anything  
2 she had to do on her computer.

3 **Q. What do you mean?**

4 A. She used to type up notes about, I met with  
5 this parent today about the fact that their child bit.  
6 You know, the parent's aware. Or, I met with this  
7 parent today. They complained that their child got bit  
8 for the second time. I reassured them that this is  
9 normal in the toddler program and provided them with,  
10 you know, articles on biting or whatnot. She keeps,  
11 sort of, a running log of major conversations that she  
12 had with parents or teachers.

13 **Q. Have you accessed that log?**

14 A. No. Shortly after Jen moved into her new  
15 position and the director took over, that computer  
16 crashed. We were not able to retrieve anything from  
17 that computer. And it was before we even knew that --  
18 that this was a lawsuit or that she was going to need  
19 any of those things, so none of it was printed.

20 **Q. What kind of computer was it?**

21 A. I am not sure.

22 **Q. PC or Mac?**

23 A. It would have -- oh, no, we don't use any  
24 Macs. It would have been a PC.

25 **Q. And do you still have possession of it?**

1           A.    We do not.

2           **Q.    Did she back it up in any way, shape or**  
3 **form?**

4           A.    She did not.

5           **Q.    Do you have any documentation to back up that**  
6 **this computer crashed?**

7           A.    Not that I am aware of.  I'm sure there was  
8 probably a purchase of a new computer right around the  
9 time that it crashed, but nothing that I can 100  
10 percent point you to at this point in time.

11          **Q.    And did you-all attempt to recover any**  
12 **information from that computer?**

13          A.    Karla attempted to recover it.  But we did  
14 not have any professional recovery.  At that point in  
15 time, we thought there was nothing on it that would  
16 need -- that would be important enough to  
17 professionally recover.

18          **Q.    And I apologize because you might have**  
19 **already just answered this.  Do you still have**  
20 **possession of it?**

21          A.    We do not.

22          **Q.    Where is it, if you know?**

23          A.    I believe it was just chunked in our  
24 dumpster.  Because once we couldn't pull anything off  
25 of it, there was also nothing to clear.

1 it. If it's an incident that would require something  
2 else, there's some other mechanism. For example, if  
3 there were student-on-student sexual contact, that  
4 would then be reported. So that would be -- there  
5 would be the report where it was reported.

6 Q. And, again, it's -- it's you-all's position  
7 that this situation, based on Jennifer's conversation  
8 with my client, with the perpetrator, with the teacher,  
9 with Ms. Jocelyn, and then potentially other children  
10 who were also in summer camp, that, based on those  
11 interviews, there was no sexual nature to what  
12 occurred?

13 A. That is correct.

14 Q. And does that also mean that she never spoke  
15 to [REDACTED] parents about what happened?

16 A. She did speak to [REDACTED] parents, not as a  
17 result of the investigation, just filling them in.  
18 Hey, this occurred. Can you please talk to [REDACTED] about  
19 making sure that she understands that she cannot, you  
20 know, stuff paper product down someone else's pants?

21 Q. Okay. And, again, it's -- it's your  
22 understanding that Jen did communicate that she spoke  
23 -- that she interviewed my client, that she  
24 communicated that to her parents?

25 A. Yes.

1 Q. And that's based on your recall?

2 A. Yes.

3 Q. Okay. Did you ever speak to my client about  
4 this?

5 A. I did not. I was willing to speak to them if  
6 they were not satisfied with Jen's investigation and  
7 what her -- like, what she learned from the  
8 investigation. But after Jen spoke with the mom, the  
9 mom seemed to understand it. She seemed fine. She  
10 seemed to think it wasn't any big deal. And there was  
11 no reason for me to speak to her after that.

12 Q. Did you speak to my minor client?

13 A. I did not.

14 Q. And what is Jennifer's educational  
15 background?

16 A. She has a bachelor's in early childhood, I  
17 know for sure. I don't remember past that. I'm pretty  
18 sure she has an advanced degree.

19 Q. Fair to say, though, that you actually have  
20 the most advanced degree in the circumstance,  
21 correct?

22 A. Yes.

23 Q. You would be an excellent person to have  
24 spoken to her --

25 A. Yes.

1           **Q.    -- about what happened?  And -- and you might**  
2   **have been the best to understand how to do it in a way**  
3   **that would have been beneficial to the child?**

4                   MR. KNEECE:  Objection to form.

5  BY MS. FLUMIAN:

6           A.   Possibly.

7           **Q.   And -- but that did not happen?**

8           A.   It did not.  That was not my role at the  
9  preschool at that time.

10          **Q.   Did you -- what is your understanding as to**  
11   **the conversation that Jen had with Amy Annable?**

12          A.   That the way -- I wish -- I wish I had a  
13  picture.

14          **Q.   I have the layout, if that's helpful.**

15          A.   It's not.  When a teacher is supervising a  
16  bathroom duty for a group of students that are in a  
17  bathroom that has stalls, they put themselves at the  
18  door so that they can monitor the children who have  
19  already been to the bathroom or who are waiting in the  
20  bathroom.  I assume everybody's been to public school.  
21  It's much like -- like a public school would do where  
22  you're monitoring some kids in the hall and some kids  
23  are in the bathroom.  And Amy was in between monitoring  
24  the group that was in the hall while also monitoring  
25  the bathroom as the kids came out of stalls.  When, you

1 know, she was looking this way, [REDACTED] came -- I'm  
2 sorry -- [REDACTED] came out of the stall. And [REDACTED] put  
3 paper towels or toilet paper -- there's been so much  
4 mis- -- whatever -- but I believe she said paper towels  
5 at the time -- put paper towels down [REDACTED] pants.  
6 [REDACTED] said, No. At the same time, Amy said, No,  
7 corrected the behavior with [REDACTED]. And that was the end  
8 of it. [REDACTED] was not upset. [REDACTED] did not  
9 require any other, like, comforting or anything. It  
10 was -- while she did not see her immediately do it, she  
11 saw her while she still had her hands, like, cramming  
12 stuff down her pants. In Amy's estimation, it was a  
13 typical childhood goofing off and not any kind of  
14 sexual content or inappropriateness, no effort to touch  
15 any private parts.

16 Q. I'm now going to mark what will be  
17 Plaintiff's 11, I think. I apologize in advance.  
18 These documents are not Bates'd. They were produced by  
19 your first lawyer. I will tell you, I have altered  
20 them in one single way. All of these documents were  
21 produced to me. Forgive me; I'm trying to refrain from  
22 editorializing. Every other page was blank, so I have  
23 altered them in so much as I have removed all the blank  
24 pages.

25 A. Okay.

1 was provided to me earlier today, that it's most likely  
2 true that the event that is described in that document  
3 occurred at Market Commons and not at -- go ahead.

4 A. Correct.

5 Q. Because of that, I have no idea what the  
6 layout of that building is. And I think it's fair for  
7 us to agree that there are no stalled bathrooms at the  
8 Carolina Forest location; is that fair?

9 A. Correct.

10 Q. How many stalled bathrooms are there, if you  
11 know, for six-year-olds at the Market Commons?

12 A. I believe five, but it could be four or six.  
13 It is approximately five stalls --

14 Q. Oh.

15 A. -- in the girls --

16 Q. So there's one bathroom?

17 A. One bathroom for ladies; one bathroom for  
18 gentlemen.

19 Q. And would --

20 A. And I believe there's about five stalls in  
21 each.

22 Q. Okay. And do you know -- do you know the day  
23 that this occurred?

24 A. I believe it was the last week of summer  
25 camp, so it would have been the week of the 24th

1 through the 28th. And the mom came in and talked to  
2 Jen about it on the -- on Thursday, the 27th. So it  
3 would have had to have been the three days prior to  
4 that.

5 **Q. What steps did Jen or anyone else take, to**  
6 **your knowledge, to prevent those two girls from ever**  
7 **being bathroom buddies?**

8 A. When the mom talked to Jen about it, she did  
9 request that they spend as much time apart as possible.  
10 Jen explained that it is one summer camp, and so they  
11 could not be kept separate. But that -- the reason I  
12 know when it was is because she said, But when they go  
13 into the next -- the next week we were off. That was  
14 to get everything set up technologywise and for Labor  
15 Day. And when they came back after that, we had two  
16 groups going to be the Monday, Tuesday, Wednesday,  
17 Thursday, Friday hybrid with the county. And Jen told  
18 her that she would put them in their primary groups as  
19 separate. She did explain to Mom that that does not  
20 mean they can always be kept separate. You know, there  
21 is the morning when they start together. There's the  
22 afternoon when they end together. There are times that  
23 there are overlap if they go to the -- the cafeteria  
24 for a science experiment, but that she would put them  
25 in two different primary groups.

**1 parent nonpayment of fees?**

**2** A. Yes. Sorry. I was talking about why a child  
**3** might be expelled, not why a family might be removed.  
**4** A family will be removed for nonpayment of fees any  
**5** time fees aren't paid.

**6 Q. Based on your prior answer, do I understand**  
**7 that I have reviewed all of [REDACTED] file that is**  
**8 in possession of Palmetto Preschool?**

**9** A. Yes.

**10 Q. There --**

**11** A. It has been a while. But, yes.

**12 Q. -- there's no documentation that could exist**  
**13 about her that you have not reviewed?**

**14** A. I do not believe so.

**15 Q. And was the DSS report in her file?**

**16** A. No. The DSS report was in the file that we  
**17** discussed that all of the DSS reports go in.

**18 Q. Let's talk about video and audio recordings.**  
**19 Do you video the classrooms?**

**20** A. Yes.

**21 Q. What happens to those videos?**

**22** A. They stay on there until they record over, I  
**23** believe.

**24 Q. How long do they record over or how long**  
**25 until they record over?**

1           A.    I can't tell you. I definitely can't tell  
2   you how long it was in 2020.

3           **Q.    Who set up your surveillance system?**

4           A.    I think it's WTS.

5           **Q.    And would that also be true for the Market**  
6 **Commons location?**

7           A.    WTS was not who set it up originally. But  
8   when we had new equipment installed, I believe WTS did  
9   Market Common, as well.

10          **Q.    And did anyone pull any video recordings**  
11 **related to my client's first report?**

12          A.    No. There would be no video recordings  
13   because, at Market Common, in the gym, there is no  
14   video equipment.

15          **Q.    Why?**

16          A.    Because the academy who actually has the gym  
17   does not have the same video equipment that we do. And  
18   we just borrow their gym.

19          **Q.    Just so I understand, what you mean is the**  
20 **video equipment that's in that room does not belong to**  
21 **you; it belongs to them?**

22          A.    There is no video equipment, to the best of  
23   my knowledge, in Palmetto Academy's gym.

24          **Q.    Do you audio record anywhere --**

25          A.    We --

1           **Q.    -- in any location?**

2           A.    -- we do now.  We did not back in 2020.

3           **Q.    And do you have any documentation related to**  
4 **the videos surveillance system that you have in place**  
5 **at Carolina Forest, meaning do you have the original**  
6 **install paperwork, including, like, the invoice for all**  
7 **of the equipment?**

8           A.    It may exist somewhere.  I could not readily  
9 tell you where it is.

10          **Q.    If you wanted to pull a video from Carolina**  
11 **Forest back in 2020, who would have you gone to, to ask**  
12 **them to pull it?**

13          A.    I would have gone over and pulled it or Karla  
14 would have pulled it.

15          **Q.    So either of you knew how?**

16          A.    Lots of times, she had to help me figure it  
17 out.  But yes.

18          **Q.    Okay.  Did you ever pull -- ever -- ever pull**  
19 **any video from that time period?**

20          A.    Not that I am aware of.

21          **Q.    Have you done it ever?**

22          A.    Yes, usually with Karla on the phone to help  
23 me push the right buttons.  Technology is not my  
24 specialty.

25          **Q.    And as we sit here today, as you've already,**

1 kind of, indicated, you don't know how long any video  
2 would have been kept?

3 A. I do not.

4 Q. And, to your knowledge, was any video  
5 provided to DSS when they came in '21 related to this  
6 incident?

7 A. No. The video definitely would not have  
8 existed 12, 14 month later.

9 Q. And it doesn't make any sense that it would  
10 have been included in a subpoena, would it?

11 A. What do you mean?

12 Q. A subpoena that was issued by your former  
13 attorney asked for video recording. And so, since it  
14 definitely didn't exist in 2021, that subpoena issued  
15 in 2023 would have been for nothing, correct?

16 A. Yes.

17 Q. Did you consult with anyone when creating  
18 your personnel handbook?

19 A. We had a personnel handbook for a lot of  
20 years. I really don't remember.

21 Q. Like, for -- did you, like, go to any  
22 seminars where they talked about what you should  
23 include or not include?

24 A. Yeah. I've taken some random trainings in  
25 early childhood policy, not anything where we went

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM HORRY COUNTY  
Court of Common Pleas  
Honorable Dale E. Van Slambrook, Circuit Court Judge

Appellate Case No. 2025-000881

**RECEIVED**  
**May 12 2025**  
**SC Court of Appeals**

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

.....Respondents

v.

Palmetto Preschool & Learning Center, LLC.....Appellants.

**PROOF OF SERVICE**

The undersigned, attorney of record for the Appellants, certifies that on **May 12, 2025** a copy of Appellants' Return in Opposition to Respondents' Motion to Dismiss for Immediate Relief 6 days Until Next Deposition was served on Daniel W. Luginbill, Julia Flumian and Whitney B. Harrison, attorneys for Respondents via email to [dluginbill@mcgowanhood.com](mailto:dluginbill@mcgowanhood.com), [jflumian@mcgowanhood.com](mailto:jflumian@mcgowanhood.com) and [wharrison@mcgowanhood.com](mailto:wharrison@mcgowanhood.com).

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May 12, 2025