

12 The Plaintiff's cause of actions against these Defendants are barred by application of the public duty rule.

13. There is no evidence that these Defendants breached any legal duty owed to the Plaintiff.

14. The Plaintiff has failed to state a justiciable claim against these Defendants, and therefore these Defendants must be dismissed.

15. These Defendants are entitled to immunity pursuant to S.C. Code Ann. § 63-7-400 because the Defendant Signorino acted in good faith at all relevant times.

16. The Defendant Signorino alleges that at all relevant times, she was acting within the course and scope of her official duties as a law enforcement officer, pursuant to lawful authority, and therefore is immune from suit pursuant to S.C. Code Ann. §15-78-70(c).

17. Plaintiff's claims against these Defendants are barred pursuant to S.C. Code Ann. §15-78-70(d).

18. Dismissing and/or striking from the Complaint any claims for punitive damages as such damages are not properly recoverable under the common laws of the State of South Carolina or the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-120(b) (1976) as amended.

19. The Defendant RCSD is not a legal entity and, therefore, is not amenable to suit and is not the proper party defendant in this case.

20. The Plaintiff's claims are barred by the defense of acquiescence and/or consent.

21. The Defendant RCSD is absolutely immune from the Plaintiff's tort claims pursuant to S.C. Code Ann. §§ 15-78-40 and/or 15-78-50(b) of the South Carolina Tort Claims Act.

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SC Court of Appeals

22. The Plaintiff has failed to adduce evidence of the requisite elements of her causes of action.

23. The Plaintiff cannot bring the subject Complaint on behalf of the minor child in a representative capacity because there is an irreconcilable conflict between the Plaintiff in her individual capacity and representative capacity.

These Defendants' motion is based upon the pleadings filed in this case; the rules of court; pertinent portions of body worn camera videos dated May 26, 2020 and the deposition transcript of Casey Signorino dated December 8, 2021; and any other matters to be presented to the Court at the time of hearing.

CROWE LAFAVE GARFIELD & BAGLEY

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Counsel for Defendants RCSD and Signorino

Columbia, South Carolina

June 13, 2022

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

C.A. No.: 2021-CP-40-01484

Lisa Wallas,)
)
)
Plaintiff,)

vs.)

Richland County Sheriff's Department,)
South Carolina Department of Social)
Services, Richland County Department)
of Social Services, and)
Casey Elizabeth Signorino,)
)
Defendants.)

**NOTICE OF MOTION FOR
SUMMARY JUDGEMENT**

TO: ROBERT D. GARFIELD, ESQUIRE; STEVEN R. SPREEUWERS, ESQUIRE,
COUNSEL FOR THE DEFENDANTS, RICHLAND COUNTY SHERIFF'S
DEPARTMENT, CASEY ELIZABETH SIGNORINO:

YOU WILL PLESAAE TAKE NOTICE that the undersigned as counsel for the Plaintiff
hereby moves for an Order granting Summary Judgement in favor of the Plaintiff.

The Plaintiff Lisa Wallas is the mother of a young child who is approximately 16 years of
age. A W is the child of Lisa Wallas.

The child ran away from home and was ultimately taken into the possession of the
Sheriff's Department. The Sheriff's Department did not notify DSS as is required by law but
rather took it upon itself to place the child with a non-custodial parent.

Under South Carolina law, DSS is charged with investigating, prosecuting and
adjudicating issues related to the safety of children or the removal from the custody of parents.
DSS is given the assistance of law enforcement but it is not the job of law enforcement to place a
child.

In this case, the child was placed without even notifying DSS. The child remained gone

for weeks from the custodial parent.

Richland County Sheriff's Department was only authorized to take the child to emergency protective custody and to transport the child to a location agreed upon by DSS. As DSS was never notified, there is a clear violation of SC Code section 63-7-620 (b)(2).

In short, the Sheriff's Department violated South Carolina Law which as a matter of law is actionable and equates to gross neglect. There is simply no legitimate excuse as to why DSS was not notified and involved with the placement of this child.

No 72 hour hearing was ever had because the Sheriff's Department did not report the matter to DSS. The Probable Cause Hearing required by the Code indicates that a hearing must be had within seventy-two (72) hours to establish probable cause. No such hearing ever took place.

The procedure were not followed and were ignored by the Sheriff's Department. Liability should be granted as a matter of Law.

MOORE BRADLEY MYERS LAW FIRM, P.A.

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Attorney for Plaintiff

May 12, 2022

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
)
)
Lisa Wallas, as Natural Guardian of A)
W , Minor Child,)
)
Plaintiff,)
)
v.)
)
Richland County Sheriff's Department, South)
Carolina Department of Social Services,)
Richland County Department of Social)
Services, and Casey Elizabeth Signorino,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2021-CP-40-01971

**NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGMENT ON
BEHALF OF DEFENDANTS RCSD
AND SIGNORINO**

***[PRIORITY MATTER PURSUANT
TO RULE 40(a)(2), SCRPC]***

TO: S. JAHUE MOORE, ESQ. AND BRYAN C. LETTEER, ESQ., ATTORNEYS FOR THE PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that the undersigned attorneys for the Defendants Richland County Sheriff's Department ("RCSD") and Casey Elizabeth Signorino will move before the Presiding Judge of the Fifth Judicial Circuit at the Richland County Judicial Center, Columbia, South Carolina, at such time and place as may be set by the Court, for an order, pursuant to Rule 56, SCRPC, granting summary judgment to these Defendants and dismissing with prejudice the causes of actions set forth in the Plaintiff's Complaint. These Defendants' motion is based upon the following grounds:

1. These Defendants are entitled to absolute sovereign immunity under S.C. Code Ann. § 15-78-60(1).
2. These Defendants are entitled to absolute sovereign immunity under S.C. Code Ann. § 15-78-60(2).

3. These Defendants are entitled to absolute sovereign immunity under S.C. Code Ann. § 15-78-60(3).

4. These Defendants are entitled to absolute sovereign immunity under S.C. Code Ann. § 15-78-60(4).

5. These Defendants are entitled to absolute sovereign immunity under S.C. Code Ann. § 15-78-60(5).

6. These Defendants are entitled to absolute sovereign immunity under S.C. Code Ann. § 15-78-60(6).

7. These Defendants are entitled to absolute sovereign immunity under S.C. Code Ann. § 15-78-60(20).

8. These Defendants are entitled to absolute sovereign immunity under S.C. Code Ann. § 15-78-60(23).

9. Dismissing the first, second and fourth causes of action for negligence and/or gross negligence as the Plaintiff has failed to state a claim since South Carolina law does not recognize a cause of action for a negligent investigation or negligent seizure on the part of a law enforcement officer. Moreover, casual statements, representations as to matters of law, or matters that the Plaintiff could ascertain on her own in the exercise of due diligence are not actionable.

10. Dismissing the third cause of action for a due process violation since there is no statutory scheme in South Carolina which enables a citizen to bring a private right of action for civil damages under the state constitution.

11. Dismissing the fifth cause of action in the Plaintiff's Complaint on the basis that these Defendants do not owe a fiduciary duty to the Plaintiff and the claim of a breach of a fiduciary duty should be dismissed as a matter of law.

12 The Plaintiff's cause of actions against these Defendants are barred by application of the public duty rule.

13. There is no evidence that these Defendants breached any legal duty owed to the Plaintiff.

14. The Plaintiff has failed to state a justiciable claim against these Defendants, and therefore these Defendants must be dismissed.

15. These Defendants are entitled to immunity pursuant to S.C. Code Ann. § 63-7-400 because the Defendant Signorino acted in good faith at all relevant times.

16. The Defendant Signorino alleges that at all relevant times, she was acting within the course and scope of her official duties as a law enforcement officer, pursuant to lawful authority, and therefore is immune from suit pursuant to S.C. Code Ann. §15-78-70(c).

17. Plaintiff's claims against these Defendants are barred pursuant to S.C. Code Ann. §15-78-70(d).

18. Dismissing and/or striking from the Complaint any claims for punitive damages as such damages are not properly recoverable under the common laws of the State of South Carolina or the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-120(b) (1976) as amended.

19. The Defendant RCSD is not a legal entity and, therefore, is not amenable to suit and is not the proper party defendant in this case.

20. The Plaintiff's claims are barred by the defense of acquiescence and/or consent.

21. The Defendant RCSD is absolutely immune from the Plaintiff's tort claims pursuant to S.C. Code Ann. §§ 15-78-40 and/or 15-78-50(b) of the South Carolina Tort Claims Act.

22. The Plaintiff has failed to adduce evidence of the requisite elements of her causes of action.

These Defendants' motion is based upon the pleadings filed in this case; the rules of court; pertinent portions of body worn camera videos dated May 26, 2020 and the deposition transcript of Casey Signorino dated December 8, 2021; and any other matters to be presented to the Court at the time of hearing.

CROWE LAFAVE GARFIELD & BAGLEY

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Counsel for Defendants RCSD and Signorino

Columbia, South Carolina

June 13, 2022

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

C.A. No.: 2021-CP-40-01971

Lisa Wallas, as Natural Guardian of)
A W , Minor Child,)
)
Plaintiff,)
vs.)

Richland County Sheriff's Department,)
South Carolina Department of Social)
Services, Richland County Department)
of Social Services, and)
Casey Elizabeth Signorino,)
)
Defendants.)

**NOTICE OF MOTION FOR
SUMMARY JUDGEMENT**

TO: ROBERT D. GARFIELD, ESQUIRE; STEVEN R. SPREEUWERS, ESQUIRE,
COUNSEL FOR THE DEFENDANTS, RICHLAND COUNTY SHERIFF'S
DEPARTMENT, CASEY ELIZABETH SIGNORINO:

YOU WILL PLESAE TAKE NOTICE that the undersigned as counsel for the Plaintiff
hereby moves for an Order granting Summary Judgement in favor of the Plaintiff.

The Plaintiff Lisa Wallas is the mother of a young child who is approximately 16 years of
age. A W is the child of Lisa Wallas.

The child ran away from home and was ultimately taken into the possession of the
Sheriff's Department. The Sheriff's Department did not notify DSS as is required by law but
rather took it upon itself to place the child with a non-custodial parent.

Under South Carolina law, DSS is charged with investigating, prosecuting and
adjudicating issues related to the safety of children or the removal from the custody of parents.
DSS is given the assistance of law enforcement but it is not the job of law enforcement to place a
child.

In this case, the child was placed without even notifying DSS. The child remained gone for weeks from the custodial parent.

Richland County Sheriff's Department was only authorized to take the child to emergency protective custody and to transport the child to a location agreed upon by DSS. As DSS was never notified, there is a clear violation of SC Code section 63-7-620 (b)(2).

In short, the Sheriff's Department violated South Carolina Law which as a matter of law is actionable and equates to gross neglect. There is simply no legitimate excuse as to why DSS was not notified and involved with the placement of this child.

No 72 hearing was ever had because the Sheriff's Department did not report the matter to DSS. The Probable Cause Hearing required by the Code indicates that a hearing must be had within seventy-two (72) hours to establish probable cause. No such hearing ever took place.

The procedure were not followed and were ignored by the Sheriff's Department. Liability should be granted as a matter of Law.

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May 12, 2022

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Lisa Wallas,

Plaintiff,

vs.

Richland County Sheriff's Department, South Carolina Department of Social Services, Richland County Department of Social Services, and Casey Elizabeth Signorino,

Defendants.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

C.A. No. 2021-CP-40-01484

STIPULATION OF DISMISSAL

PURSUANT TO RULE 41(a)(1), S.C.R.C.P., Plaintiff Lisa Wallas and Defendants South Carolina Department of Social Services and Richland County Department of Social Services, by and through their undersigned counsel, hereby stipulate to dismiss all causes of action with prejudice against Richland County Department of Social Services and South Carolina Department of Social Services, with each party to bear its own attorney's fees, costs and expenses.

WE SO STIPULATE:

BOYKIN & DAVIS, LLC

By: s/Tierney F. Goodwyn

Charles J. Boykin (SC Bar #65149)
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Attorneys for Defendants S.C D.S.S and
Richland County D.S.S

April 4, 2022
Columbia, South Carolina

WE SO STIPULATE:

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Attorneys for Plaintiff

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Lisa Wallas,

Plaintiff,

vs.

Richland County Sheriff's Department, South
Carolina Department of Social Services,
Richland County Department of Social
Services, and Casey Elizabeth Signorino,

Defendants.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

C.A. No. 2021-CP-40-01484

**DEFENDANTS SOUTH CAROLINA
DEPARTMENT OF SOCIAL SERVICES'
AND RICHLAND COUNTY
DEPARTMENT OF SOCIAL SERVICES
MEMORANDUM IN SUPPORT OF ITS
MOTION TO DISMISS**

INTRODUCTION

Defendants, South Carolina Department of Social Services and Richland County Department of Social Services (hereinafter collectively referred to as "DSS"), by and through their undersigned counsel, hereby submits this Memorandum of Law in Support of its Motion to Dismiss in the above-captioned action. Plaintiff has failed to state facts sufficient to constitute a cause of action for her claims of abuse of process, malicious prosecution, negligence, and breach of fiduciary duty arising from the removal of her daughter from Plaintiff's custody and investigation into allegations of abuse and neglect.

FACTUAL BACKGROUND

DSS is a State agency charged with the investigation of child abuse and/or neglect throughout the State, among other things. Richland County DSS is a local office located in Richland County, South Carolina. The dispute at issue in this case arises from DSS's investigation of suspected child abuse of a minor Plaintiff.

Plaintiff Lisa Wallas is the mother of minor child, A W (Amend. Compl., ¶¶ 8-9). According to the Complaint, Plaintiff had primary custody of A and the father, Terry Wallas, had visitation rights as set forth in a Family Court Order. (Amend. Compl., ¶ 10).

As alleged in the Complaint, on or about May 22, 2020, Plaintiff reported A as a runaway. (Amend. Compl., ¶ 11). Plaintiff contends in her Complaint, on May 26, 2020, Deputy Casey Signorino of the Richland County Sheriff's Department, refused to return A to Plaintiff and gave Plaintiff two choices: put the Plaintiff in foster care or place A with a friend or relative. (Amend. Compl., ¶ 12). Plaintiff alleges that she suggested placing A with the father as Deputy Signorino did not give her any other options. (Amend. Compl., ¶ 13). Thereafter, A was placed with the father. Id. Plaintiff alleges that Deputy Signorino advised Plaintiff that she would be investigated by DSS. (Amend. Compl., ¶¶ 13-14). The Complaint asserts that "on or about June 3, 2020, Plaintiff contacted Richland County DSS in regards to her child. Richland County DSS was not notified by Officer Signorino or any other individual from Richland County Sherriff's Department as required per S.C. Code Section 63-7-630." (Amend. Compl., ¶ 16).

On April 27, 2021, Plaintiff filed this Complaint against DSS, the Richland County Sheriff's Department, and Deputy Casey Signorino on April 27, 2021, asserting claims of abuse of process, malicious prosecution, negligent, and breach of fiduciary duty. In the Complaint, Plaintiff alleges that the Defendants were "grossly negligent, willful, wanton, and careless in the investigation of the reported incident, in the treatment of the Plaintiff and her child, and in the removal of the child from the Plaintiff's custody." (Amend. Compl., ¶ 16). Plaintiff filed an identical complaint on behalf of the minor child A W. On May 28, 2021, DSS filed

motions to dismiss both actions and to consolidate the cases as both actions involve substantially the same subject matter, parties, issues, and defenses.

STANDARD OF REVIEW

In deciding a motion to dismiss pursuant to 12(b)(6), SCRCP, the trial court should consider only the allegations set forth on the face of the plaintiff's complaint. Plyer v. Burns, 373 S.C. 637, 644 (2007) (citing Stiles v. Onorato, 318 S.C. 297, 300 (1995)). "The motion will not be sustained if the facts alleged and the inferences reasonably deducible from the pleadings would entitle the plaintiff to relief on any theory of the case." Williams v. Condon, 347 S.C. 227, 233, 553 S.E.2d 496, 499 (2001) (citing Brown v. Leverette, 291 S.C. 364, 353 S.E.2d 697 (1987)). The question to be considered is whether, in the light most favorable to the plaintiff, the pleadings articulate any valid claim for relief. Toussaint v. Ham, 292 S.C. 415, 416 (1987)).

ARGUMENT

I. PLAINTIFF'S CLAIM FOR ABUSE OF PROCESS SHOULD BE DISMISSED AGAINST DSS AS SHE HAS FAILED TO SUFFICIENTLY PLEAD ANY FACTS THAT DSS TOOK ANY ACTION THAT WAS NOT PROPER IN THE REGULAR COURSE OF AN INVESTIGATION.

In South Carolina, to establish a claim of abuse of process, a plaintiff must prove: (1) an ulterior purpose, and (2) a willful act in the use of the process that is not proper in the regular conduct of the proceeding. Swicegood v. Lott, 379 S.C. 346 (Ct. App. 2008). An abuse of process claim concerns the employment of the legal process for some purpose other than that which it was intended by the law to affect. "The improper purpose element of an abuse of process claim usually takes the form of coercion to obtain a collateral advantage, not properly involved in the proceeding itself." Id. "The willful act element consists of three components: (1) a willful or overt act; (2) in

the use of the process; (3) that is improper because it is either (a) unauthorized or (b) aimed at an illegitimate collateral objective." See Pallares v. Seinar, 407 S.C. 359, 371 (2014).

Here, the Complaint asserts that "Deputy Casey Signorino of the Richland County Sheriff's Department, refused to return A to Plaintiff and gave Plaintiff two choices: put the Plaintiff in foster care or place A with a friend or relative." (Amend. Compl., ¶ 12). Plaintiff has failed to plead any facts that DSS took any action to remove the minor child from Plaintiff's custody or took any action that was not proper in the regular course of DSS conducting an investigation. "A complaint which neglects to allege a perversion or misuse of the process by omitting facts necessary to show an improper willful act in the use of the process has not stated a cause of action for abuse of process and fails as a matter of law." Food Lion, Inc., v. United Food & Commer. Workers Int'l, 351 S.C. 65 (Ct. App. 2002). Accordingly, Plaintiff's abuse of process claim against DSS should be dismissed.

II. THIS COURT SHOULD DISMISS PLAINTIFF'S MALICIOUS PROSECUTION CLAIM AGAINST DSS AS SHE HAS FAILED TO SUFFICIENTLY PLEAD FACTS THAT DSS ACTED WITH MALICE IN INSTITUTING AN INVESTIGATION OR LACKED PROBABLE CAUSE TO CONDUCT AN INVESTIGATION.

To maintain an action for malicious prosecution, plaintiff must establish: (1) the institution or continuation of original judicial proceedings; (2) by or at the instance of the defendant; (3) termination of such proceedings in plaintiff's favor; (4) malice in instituting such proceedings; (5) lack of probable cause; and (6) injury to the plaintiff. Law v. S.C. Dep't of Corrections, 368 S.C. 424 (2006). Malice is the deliberate intentional doing of a wrongful act without just cause or excuse." McBride v. Sch. Dist. of Greenville Cnty., 389 S.C. 546 (Ct. App. 2010). Malice may be inferred from the lack of probable cause to institute the prosecution. See Law, 368 at 437.

As stated above, Plaintiff has failed to plead any facts that DSS took any action to remove the minor Plaintiff from Plaintiff's custody. In fact, the Plaintiff asserts that when she contacted DSS, DSS had not been notified of the issue. (See Amend. Compl., ¶ 16). Further, Plaintiff fails to allege any facts against DSS that it acted with malice in conducting its investigation or lacked probable cause to conduct an investigation. As such, Plaintiff's claim for malicious prosecution against DSS should be dismissed.

III. EVEN CONSIDERING THE FACTS PLEAD IN THIS CASE AS TRUE, PLAINTIFF CANNOT ESTABLISH THAT DSS OWES HER A LEGAL DUTY TO SUPPORT HER CLAIM FOR GROSS NEGLIGENCE OR BREACH OF FIDUCIARY DUTY.

A. To maintain a claim for negligence duty against DSS, Plaintiff must establish that DSS owes her a special duty.

Because Plaintiff has not and cannot plead any legal duty owed to her by DSS, Plaintiff's gross negligence claim against DSS fails as a matter of law.

In order to support her gross negligence claim, Plaintiff is required to show that: (1) DSS owed her a duty; (2) DSS breached this duty in failing to exercise a slight degree of care; (3) Plaintiff was injured, and (4) DSS's breach of duty proximately caused this injury. Rice v. Sch. Dist., 317 S.C. 87, 93, 452 S.E.2d 352, 355 (Ct. App. 1994).

"An essential element in a cause of action based upon negligence is the existence of a legal duty of care owed by the defendant to the plaintiff. Without a duty, there is no actionable negligence. The existence of a duty owed is a question of law for the courts." Doe v. Greenville County Sch. Dist., 375 SC 63, 72, 651 S.E.2d 305, 309 (2007).

Generally, there is no affirmative duty to act; however, a duty to act may be established by statute, contract, status, property interest, or some other special circumstance. Vaughan v. Town of Lyman, 370 S.C. 436, 635 S.E.2d 631 (2006). "[G]enerally statutes which create or define the

duties of a public office create no duty of care towards individual members of the public.” Arthurs v. Aiken County, 346 S.C. 97, 106, 551 S.E.2d 579, 582 (2001). Accordingly, officials performing acts pursuant to their statutory duties are immune from a private cause of action under the “public duty rule.” Jensen v. Anderson County Dep’t of Social Services, 304 S.C. 195, 199, 403 S.E.2d 615, 617 (1991). An exception to the general rule exists when the statutory duty is owed to individuals rather than the public at large. Id. However, courts in this State are reluctant to find that statutes involving official actions create a special duty. Arthurs 346 S.C. at 106, 551 S.E.2d at 127.

In this case, Plaintiff alleges that DSS was grossly negligent in conducting its investigation and in the removal of the minor Plaintiff from Plaintiff’s custody. (Amend. Compl. ¶ 16). To succeed on Plaintiff’s individual claim of negligence, Plaintiff must prove the existence of a special duty owed to her by DSS.

In adjudicating whether the statutes which govern DSS’s investigation into reports of abuse and neglect created a special duty, the South Carolina Supreme Court found “a special duty on the local child protection agency and its social workers to investigate and intervene in cases where child abuse has been reported,” that is owed to the children who are the subject of reports of abuse. Jensen, 304 S.C. at 203, 403 S.E.2d at 619. However, no appellate court has extended this special duty arising in abuse and neglect cases to individuals other than the minor children. Furthermore, the analysis of the legal test for establishing special duty demonstrates that no special duty exists as to a parent of a minor child, such as Plaintiff.

A plaintiff seeking to establish that she is owed a special duty by virtue of a statute must show: (1) an essential purpose of the statute is to protect against a particular type of harm; (2) the statute, either directly or indirectly, imposes on a specific public officer a duty to guard against or

not cause that harm; (3) the class of persons the statute intends to protect is identifiable before the fact; (4) the plaintiff is a person within the protected class; (5) the public officer knows or has reason to know of the likelihood of harm to members of the class if he or she fails to do his or her duty; and (6) the officer is given sufficient authority to act in the circumstances or he undertakes to act in the exercise of his or her office. Jensen, 304 S.C. at 200, 403 S.E.2d at 617.

In deciding Jensen, the Supreme Court determined that “[t]he essential purpose of [the statutes governing DSS’s investigations of reports of abuse or neglect] is to protect abused children when their cases have been reported to DSS officials.” Jensen, 304 S.C. at 200, 403 S.E.2d at 618. Thus, the “class of persons the statute intends to protect” consists of the children who are the subject of reports of abuse and neglect. Jensen, 304 S.C. at 200, 403 S.E.2d at 617.

In applying the above-referenced special duty test to Plaintiff’s individual claim, it is clear that the abuse and neglect statutes do not create a special duty between DSS and Plaintiff in her individual capacity as a parent. Specifically, Plaintiff cannot establish that she is “a person within the protected class” the statute intends to protect as she is not a minor about whom a report of abuse or neglect has been made.

Because Plaintiff is not a member of the class of persons the statute intends to protect, she cannot establish that the child protection statutes which govern DSS investigations create a special duty to her individually. As Plaintiff cannot establish a legal duty owed to her by DSS, her claim for gross negligence must fail.

IV. PLAINTIFF’S CLAIM FOR BREACH OF FIDUCIARY DUTY AGAINST DSS SHOULD BE DISMISSED BECAUSE DSS DOES NOT OWE A FIDUCIARY DUTY TO PLAINTIFF.

To establish a claim for breach of fiduciary duty plaintiff must show (1) the existence of a fiduciary relationship, (2) breach of the duty, and (3) harm. Whether a fiduciary relationship exists

is a question for the court. Hendrick v. Clemson Univ., 353 S.C. 449, 459 (2003). “The Court has historically reserved imposition of fiduciary duties to legal or business settings.” Id. (declining to recognize relationship between an advisor or student as a fiduciary one).

Plaintiff asserts in her Complaint that “Defendants had a fiduciary duty to the Plaintiff to properly investigate the matter between the Plaintiff and [the minor child] due to their government obligations. (Amend. Compl., ¶ 31). Plaintiff asserts that Defendants breached this duty by “removing the minor child from Plaintiff’s care without following proper codes and procedures.” (Amend. Compl., ¶ 32). As stated above, the child protection statutes do not impose a legal duty by DSS to persons outside of the protected class of persons (i.e., children the subject of report of abuse and/or neglect). Further, there was no action taken by DSS regarding removal or placement of the minor child. Rather, Deputy Signorino, Plaintiff, and Mr. Wallas agreed to the minor child’s placement pending investigation.

As such Plaintiff’s claim for breach of fiduciary duty against DSS should be dismissed.

V. **PLAINTIFF’S CLAIMS FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS SHALL BE DISMISSED BECAUSE PLAINTIFF FAILED TO PLEAD FACTS SHOWING DSS TOOK ANY ACTION IN THIS CASE AND BECAUSE DSS IS IMMUNE FROM LIABILITY PURSUANT TO THE SOUTH CAROLINA TORT CLAIMS ACT FOR ALLEGED INTENTIONAL ACTS.**

Plaintiff has failed to plead any facts alleging that DSS took any action in this case. Accordingly, Plaintiff’s claim for intentional infliction of emotional distress should be dismissed.

Further, even if facts were alleged that DSS took some action in this case, S.C. Code Ann. § 15-78-30(f) defines a “loss” for which a suit may be based against a State agency as follows:

bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in actions for negligence, but does not include the intentional infliction of emotional harm. (Emphasis added).

See also Trask v. Beaufort County, 392 S.C. 560 (2011). Accordingly, by statute, the intentional infliction of emotional distress claim can never be alleged against DSS and thus the claim in this case should be dismissed.

CONCLUSION

For the reasons stated above, Defendants respectfully request that this Court dismiss with prejudice Plaintiff's Amended Complaint entirely, or such claims individually as it sees fit in accordance with Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

Respectfully submitted,

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Attorneys for Defendants

January 20, 2022
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
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COUNTY OF RICHLAND)

Lisa Wallas,)
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Plaintiff,)
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IN THE COURT OF COMMON PLEAS
C.A. No.: 2021-CP-40-01484

**NOTICE OF MOTION TO COMPEL
PRODUCTION**

TO: ROBERT D. GARFIELD, ESQUIRE; STEVEN R. SPREEUWERS, ESQUIRE;
TIERNEY F. DUKES, ESQUIRE; CHARLES J. BOYKIN, ESQUIRE;
COUNSEL FOR THE DEFENDANTS:

YOU WILL PLESAE TAKE NOTICE that the undersigned hereby moves before the court for the production of the body camera and/or body recording material which was in the possession and operating with the officer at the time the child was taken into protective custody.

The undersigned also moves for an Order of the court striking the Defendants Answer if in fact the evidence has been destroyed.

If the evidence has been destroyed, the undersigned moves before the court for an Order requiring the Defendants to provide an explanation for the destruction and as to the name or names of the individual or individuals responsible for the destruction of such critical evidence.

The undersigned further shall move before the court for an Order requiring the production of the entire DSS file on the matter. Any matters privileged according to law certainly may be redacted but the Plaintiff should be entitled to all information related to the file.

(Signature block on following page)

MOORE BRADLEY MYERS LAW FIRM, P.A.

BY: s/ S. Jahue Moore

S. Jahue Moore (SC Bar #4063)

Post Office Box 5709

West Columbia, South Carolina 29171

Phone: (803) 796-9160

Fax: (803) 791-8410

jake@mbmlawsc.com

Attorney for Plaintiff

December 13, 2021

ELECTRONICALLY FILED - 2021 Dec 13 10:44 AM - RICHLAND - COMMON PLEAS - CASE#2021CP4001484

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Lisa Wallas,

Plaintiff,

vs.

Richland County Sheriff's Department, South
Carolina Department of Social Services,
Richland County Department of Social
Services, and Casey Elizabeth Signorion,

Defendants.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

C.A. No. 2021-CP-40-01484

**DEFENDANT' SOUTH CAROLINA
DEPARTMENT OF SOCIAL SERVICES'
NOTICE OF MOTION AND MOTION
TO DISMISS**

**TO: S. JAHUE MOORE, ESQ. AND BRYAN C. LETTEER, ESQ., ATTORNEYS FOR
THE PLAINTIFF:**

YOU WILL PLEASE TAKE NOTICE that, pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, Defendants South Carolina Department of Social Services and Richland County Department of Social Services (hereinafter "Defendants" or "DSS"), by and through their undersigned counsel, hereby move the Court to dismiss with prejudice Plaintiff's Amended Complaint against Defendants on the following grounds:

1. Plaintiff fails to state sufficient facts to constitute a cause of action for abuse of process under Rule 12(b)(6), SCRCP;
2. Plaintiff fails to state sufficient facts to constitute a cause of action for malicious prosecution under Rule 12(b)(6), SCRCP;
3. Plaintiff fails to state sufficient facts to constitute a cause of action for breach of fiduciary duty under Rule 12(b)(6), SCRCP;
4. Plaintiff fails to state sufficient facts to constitute a cause of action for negligence under Rule 12(b)(6), SCRCP;
5. Plaintiff's claim for gross negligence fails to allege a duty that was breached by the Defendants.

6. Plaintiff's claims fail as a matter of law as Defendants are immune from liability for conducting an investigation of allegations of child abuse and neglect pursuant to S.C. Code Ann. § 63-7-400.

Thus, as set forth in the supporting Memorandum of Law, to be filed at a later date and incorporated herein, Defendants moves the Court for an Order dismissing the case. This motion is based upon the pleadings in this action together with all applicable statutory and case law.

Respectfully submitted,

BOYKIN & DAVIS, LLC

By: s/Tierney F. Dukes

Charles J. Boykin (SC Bar #65149)

Tierney F. Dukes (SC Bar #102035)

P.O. Box 11844

Columbia SC 29211

Telephone: 803-254-0707

Facsimile: 803-254-5609

cjboykin@boykinlawsc.com

tdukes@boykinlawsc.com

Attorneys for Defendants South Carolina
Department of Social Services and Richland County
Department of Social Services

May 28, 2021

Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Lisa Wallas

PLAINTIFF,

vs.

Richland County Sheriff's Office; et al.

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

C/A NO: 2021-CP-40-01484

AFFIDAVIT OF SERVICE

Service of Process on: Casey Signorino

The undersigned, being first duly sworn, on oath deposes and states: That s(he) is now and at all times herein mentioned a citizen of the United States, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, has the authority to serve pleadings in the State named above, and is competent to be a witness therein.

Documents Served:

- Summons (Jury Trial Demanded)
- Complaint (Jury Trial Demanded)

This affiant served the above-described documents at 634 Brooks Ave., W. Columbia SC 29169 on the 28th day of April, 2021 at 11:20 AM by delivering 1 copies of same to: Casey Signorino

INDIVIDUAL SERVICE: **MET DEFENDANT AT**

SUBSTITUTE SERVICE by leaving a copy of the above-described documents at his/her usual place of abode with (relationship/paralegal): _____ a person residing therein of suitable age and discretion who confirmed the Defendant resides at the above address and informed that person of the contents thereof.

CORPORATE OR GOVERNMENT SERVICE by leaving a copy of this process with _____ (Title) _____, a person authorized to accept service and informed that the person of the contents thereof.

THE DESCRIPTION OF THE PERSON WITH WHOM THE COPY OF THIS PROCESS WAS LEFT IS AS FOLLOWS:
Age 30's Gender Female Race White Height 5.3' Weight 165 Hair Black Glasses Pregnant

Signature of Process Server: The undersigned declares, under penalty of perjury, that the foregoing is true and correct and that he/she is over the age of 18 and is not interested party in this action.

NAME: C. Shawn Muller C Shawn Muller 4/28/2021
Print Signature Date

Notary Public: Subscribed and sworn before me on this 28th day of April in the year of 2021

Personally known to me or identified by the following document:

Notary Public for SOUTH CAROLINA

Commission Expiration: 9/8/2027

Type: _____

Denise M. Muller
Notary Public (Legal Signature)

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Lisa Wallas,

PLAINTIFF,

vs.

Richland County Sheriff's Office; et al.

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

C/A NO: 2021-CP-40-01484

AFFIDAVIT OF SERVICE

Service of Process Richland County Sherri's Office

The undersigned, being first duly sworn, on oath deposes and states: That s(he) is now and at all times herein mentioned a citizen of the United States, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, has the authority to serve pleadings in the State named above, and is competent to be a witness therein.

Documents Served:

- Summons (Jury Trial Demanded)
- Complaint (Jury Trial Demanded)

This affiant served the above-described documents at 1535 Confederate Ave., Columbia SC 29201 on the 28th day of April, 2021 at 9:10 AM by delivering 1 copies of same to: Mary Cowsert

INDIVIDUAL SERVICE: **MET DEFENDANT AT**

SUBSTITUTE SERVICE by leaving a copy of the above-described documents at his/her usual place of abode with (relationship/paralegal): _____ a person residing therein of suitable age and discretion who confirmed the Defendant resides at the above address and informed that person of the contents thereof.

CORPORATE OR GOVERNMENT SERVICE by leaving a copy of this process with Mary Cowsert (Title) Office of General Council and AOS , a person authorized to accept service and informed that the person of the contents thereof.

THE DESCRIPTION OF THE PERSON WITH WHOM THE COPY OF THIS PROCESS WAS LEFT IS AS FOLLOWS:

Age 40's Gender Female Race White Height 5' Weight 140 Hair Black Glasses _____

Signature of Process Server: The undersigned declares, under penalty of perjury, that the foregoing is true and correct and that he/she is over the age of 18 and is not interested party in this action.

NAME: C. Shawn Muller C. SHAWN MULLER 5/19/2021
Print Signature Date

Notary Public: Subscribed and sworn before me on this 19th day of May in the year of 2021

Personally known to me or identified by the following document:

Notary Public for SOUTH CAROLINA
Commission Expiration: 9/8/2027

Type: _____

Denise M. Muller
Notary Public (Legal Signature)

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Lisa Wallas,

PLAINTIFF,

vs.

Richland County Sheriff's Office; et al.

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

C/A NO: 2021-CP-40-01484

AFFIDAVIT OF SERVICE

Service of Process on: South Carolina Department of Social Services

The undersigned, being first duly sworn, on oath deposes and states: That s(he) is now and at all times herein mentioned a citizen of the United States, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, has the authority to serve pleadings in the State named above, and is competent to be a witness therein.

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Print Signature Date

Notary Public: Subscribed and sworn before me on this 28th day of April in the year of 2021
Personally known to me or identified by the following document:

Notary Public for SOUTH CAROLINA
Commission Expiration: 9/8/2027

Type: _____

Denise M. Muller
Notary Public (Legal Signature)

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Lisa Wallas

PLAINTIFF,

vs.

Richland County Sheriff's Office; et al.

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

C/A NO: 2021-CP-40-01484

AFFIDAVIT OF SERVICE

Service of Process on: Casey Signorino

The undersigned, being first duly sworn, on oath deposes and states: That s(he) is now and at all times herein mentioned a citizen of the United States, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, has the authority to serve pleadings in the State named above, and is competent to be a witness therein.

Documents Served:

- Summons (Jury Trial Demanded)
- Complaint (Jury Trial Demanded)

This affiant served the above-described documents at 634 Brooks Ave., W. Columbia SC 29169 on the 28th day of April, 2021 at 11:20 AM by delivering 1 copies of same to: Casey Signorino

INDIVIDUAL SERVICE: **MET DEFENDANT AT**

SUBSTITUTE SERVICE by leaving a copy of the above-described documents at his/her usual place of abode with (relationship/paralegal): _____ a person residing therein of suitable age and discretion who confirmed the Defendant resides at the above address and informed that person of the contents thereof.

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Age 30's Gender Female Race White Height 5.3' Weight 165 Hair Black Glasses Pregnant

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Print Signature Date

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Personally known to me or identified by the following document:

Notary Public for SOUTH CAROLINA
Commission Expiration: 9/8/2027

Type: _____

Denise M. Muller
Notary Public (Legal Signature)

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Lisa Wallas,

PLAINTIFF,

vs.

Richland County Sheriff's Office; et al.

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

C/A NO: 2021-CP-40-01484

AFFIDAVIT OF SERVICE

Service of Process Richland County Sherrif's Office

The undersigned, being first duly sworn, on oath deposes and states: That s(he) is now and at all times herein mentioned a citizen of the United States, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, has the authority to serve pleadings in the State named above, and is competent to be a witness therein.

Documents Served:

- Summons (Jury Trial Demanded)
- Complaint (Jury Trial Demanded)

This affiant served the above-described documents at 1535 Confederate Ave., Columbia SC 29201 on the 28th day of April, 2021 at 9:10 AM by delivering 1 copies of same to: Mary Cowsert

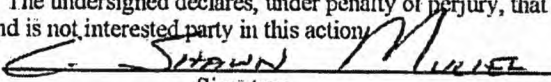
INDIVIDUAL SERVICE: MET DEFENDANT AT

SUBSTITUTE SERVICE by leaving a copy of the above-described documents at his/her usual place of abode with (relationship/paralegal): a person residing therein of suitable age and discretion who confirmed the Defendant resides at the above address and informed that person of the contents thereof.

CORPORATE OR GOVERNMENT SERVICE by leaving a copy of this process with Mary Cowsert (Title) Office of General Council and AOS, a person authorized to accept service and informed that the person of the contents thereof.

THE DESCRIPTION OF THE PERSON WITH WHOM THE COPY OF THIS PROCESS WAS LEFT IS AS FOLLOWS:
Age 40's Gender Female Race White Height 5' Weight 140 Hair Black Glasses

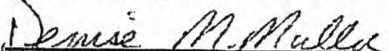
Signature of Process Server: The undersigned declares, under penalty of perjury, that the foregoing is true and correct and that he/she is over the age of 18 and is not interested party in this action.

NAME: C. Shawn Muller  5/19/2021
Print Signature Date

Notary Public: Subscribed and sworn before me on this 19th day of May in the year of 2021
Personally known to me or identified by the following document:

Notary Public for SOUTH CAROLINA
Commission Expiration: 9/8/2027

Type: _____


Notary Public (Legal Signature)

RECEIVED

Nov 14 2024

SC Court of Appeals

ELECTRONICALLY FILED - 2024 Nov 14 3:22 PM - RICHLAND - COMMON PLEAS - CASE#2021CP4001484

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Circuit Court for the Fifth Judicial Circuit

Diane Goodstein, Circuit Court Judge

Case Nos. 2021-CP-40-01484 and 2021-CP-40-01971

Lisa Wallas,

Appellant,

vs.

Richland County Sheriff's Department and Casey Elizabeth Signorino,

Respondents.

And

Lisa Wallas, as Natural Guardian of Ainsley Wallas, Minor Child,

Appellant,

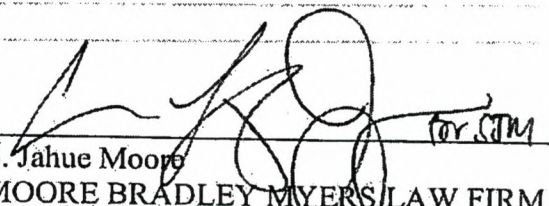
vs.

Richland County Sheriff's Department and Casey Elizabeth Signorino,

Respondents.

NOTICE OF APPEAL

Lisa Wallas and Lisa Wallas, as Natural Guardian of A W , Minor Child appeal the Order of the Honorable Diane Goodstein, signed on October 21, 2024 and E-filed by the Clerk on that date. Appellants received electronic notice of entry of this Order on October 21, 2024.


S. Jahue Moore
MOORE BRADLEY MYERS LAW FIRM, P.A.
Post Office Box 5709
West Columbia, SC 29171
(803) 796-9160
ATTORNEYS FOR APPELLANTS

Other Counsel of Record:
Robert D. Garfield, Esquire
CROWE, LAFAVE, GARFIELD & BAGLEY
2019 Park Street
Columbia, SC 29201
(803) 999-1225
ATTORNEYS FOR THE RESPONDENTS

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Lisa Wallas,

Plaintiff,

v.

Richland County Sheriff's Department
and Casey Elizabeth Signorino,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2021-CP-40-01484

RECEIVED

Nov 14 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Lisa Wallas, as Natural Guardian of A
W. , Minor Child,

Plaintiff,

v.

Richland County Sheriff's Department, South
Carolina Department of Social Services,
Richland County Department of Social
Services, and Casey Elizabeth Signorino,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2021-CP-40-01971

ORDER

This matter comes before this Court by way of cross-motions for summary judgment filed in the above actions by the Plaintiff and the Defendants. A hearing on these motions was held via virtual courtroom on June 21, 2024. Appearing at the time and presenting oral arguments were S. Jahue Moore, Esq., counsel for the Plaintiff, and Robert D. Garfield, Esq., counsel for the Defendants Richland County Sheriff's Department ("RCSD")¹ and Casey Elizabeth Signorino. For

¹ This Court recognizes that the Defendant RCSD is not a legal entity of the State; that the proper entity is the Sheriff of Richland County in his official capacity; and that his office constitutes a governmental

the reasons discussed herein, this Court grants the Defendants' motions for summary judgment and denies the Plaintiff's motions for summary judgment.

DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT

I. FACTUAL BACKGROUND

This case centers on the Plaintiff's minor child A , who was 15 years of age at the relevant times. A is the daughter of the Plaintiff Lisa Wallas and Terry Wallas.

Taking the facts in a light most favorable to the Plaintiff,² on Friday, May 22, 2020, the Plaintiff reported A as a runaway. On Tuesday, May 26, 2020, two reporters advised the RCSD that A had been located. These reporters were A 's high school teacher and a parent of A 's friend. RCSD Deputy Signorino responded to Dutch Fork High School in Richland County and made contact with A , as well as these reporters. In their interview, A told Signorino that, *inter alia*, she ran away from home on Friday (four days earlier) because she was being abused. After the interview, Signorino returned to her patrol vehicle and contacted both the Plaintiff and Terry Wallas via a three-way teleconference. Signorino advised A 's parents that she was present with their daughter at the high school and that A was claiming that the Plaintiff had been abusing her. The Plaintiff and Terry Wallas stated that they were divorced and, pursuant to a court order, the Plaintiff had primary custody of A while her father, Terry Wallas, had visitation rights. With this, the Plaintiff stated that she wanted A to return home. Deputy Signorino attempted to mediate the situation by advising the parents of their two options. Either A could be placed into Emergency Protective Custody ("EPC") or otherwise placed with a friend or relative.³ Not receptive to these options, the parents agreed, albeit

entity as set forth pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.* and is under the jurisdiction of the Act.

² These facts are derived from both of the Plaintiff's Amended Complaints filed April 27, 2021, the Plaintiff's motions for summary judgment filed May 12, 2022, and Signorino's body worn camera video. *See e.g. Scott v. Harris*, 550 U.S. 372 (2007). (holding that in considering deputy's motion for summary judgment, courts had to view the facts in the light depicted by videotape which captured events underlying plaintiff's claim)

³ To the extent that the Plaintiff is advancing a negligent misrepresentation theory, such a claim would involve Signorino's intercession in these circumstances; her making erroneous representations as to matters of law and EPC statutes; and the Plaintiff having so relied to her detriment. This type of claim would fail. *See Carolina Chloride, Inc. v. Richland Cnty* 394 S.C. 154, 164, 714 S.E.2d 869, 87374 (2011) (holding that a member of the public has no legal right to rely solely upon the representations of county personnel and should consult the official record to determine the legal zoning classification

reluctantly, for A to temporarily stay with her father until the underlying issues had been resolved,

In this action. The Plaintiff sets forth causes of action for intentional infliction of emotional distress, abuse of process, malicious prosecution, negligence,⁴ and breach of fiduciary duty. *See generally* Am. Comps. Her theory concerns A having run away from home and ultimately taken into the possession of the RCSD. Despite being required by South Carolina statutory law, RCSD did not notify the Department of Social Services (“DSS”). Instead, Signorino took it upon herself to place the child with a non-custodial parent. The Plaintiff points to the relevant statute in which DSS is charged with investigating, prosecuting and adjudicating issues related to the safety of children or the removal from the custody of parents. Moreover, law enforcement assists DSS in this process, it is not the role of law enforcement in the placement of a minor child. The Plaintiff contends that in this instance, A was improperly placed with then non-custodial parent even without notifying DSS. Consequently, A remained housed for weeks away from the custodial parent. *Id.*, *see also*, Pl’s Motions for Summary Judgment, filed May 12, 2022.

II. LEGAL STANDARD

Summary judgment must be granted when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRPC. In determining whether there are any genuine issues of material fact, the court must view all ambiguities and reasonable inferences from the evidence “in the light most favorable to the non-moving party.” *Osborne v. Adams*, 346 S.C. 4, 7, 550 S.E.2d 319, 321 (2001);

of property); *see also AMA Mgmt. Corp.*, 309 S.C. at 223, 420 S.E.2d at 874. (1992) (“The duty of care is not a duty to take every possible care, still less is it a duty to be right; it is the familiar duty to exercise that care a reasonable man would take in the circumstances.”); *see also Associated Receivables Funding, Inc. v. Dunlap, Inc.*, 2024 WL 3058402, at *7 (S.C. Ct. App. June 20, 2024) (“There is no liability for casual statements, representations as to matters of law, or matters which plaintiff could ascertain on his own in the exercise of due diligence.” *Id.* (quoting *AMA Mgt. Corp. v. Strasburger*, 309 S.C. 213, 223, 420 S.E.2d 868, 874 (Ct. App. 1992)).

⁴ The Plaintiff’s first cause of action is the state law tort of intentional infliction of emotional distress. S.C. Code Ann. § 15-78-30(f) provides that a “loss” recoverable under the Tort Claims Act” does not include the intentional infliction of emotional harm.” Therefore, there is no remedy for the alleged intentional infliction of emotional distress and the Defendants are entitled to summary judgment on this cause of action. *See Gore v. Dorchester Cnty. Sheriff’s Off.*, 442 S.C. 438, 900 S.E.2d 423 (2024) (holding that reckless infliction of emotional distress was not “loss” actionable under SCTCA).

see also *City of Hardeeville v. Jasper Cnty.*, No. 2022-001266, 2024 WL 3434583, at *3 (S.C. Ct. App. July 17, 2024)

III. ANALYSIS / SOVEREIGN IMMUNITY

A. Generally: South Carolina Tort Claims Act

Prior to the decision of the South Carolina Supreme Court in *McCall v. Batson*, 285 S.C. 243, 329 S.E.2d 741 (1985), governmental entities and their employees were protected by sovereign immunity. In *McCall*, the Supreme Court abolished sovereign immunity. However, in the following year, the South Carolina General Assembly enacted the South Carolina Tort Claims Act (“SCTCA”) “which reinstated sovereign immunity for the State and its political subdivisions with certain exceptions.” *Jinks v. Richland County*, 349 S.C. 298, 563 S.E.2d 104, 108 (2002), reversed on other grounds, 538 U.S. 456 (2003). “The Tort Claims Act provides a limited waiver of governmental immunity and delineates the conditions upon which a claimant may pursue actions against the State and its political subdivisions.” *Id.* The SCTCA “removes the common law bar of sovereign immunity in certain circumstances, but only to the extent mandated by the Act.” *Bayle v. S.C. Department of Transportation*, 344 S.C. 115, 542 S.E.2d 736, 739 (Ct. App. 2001).

B. Immunity under S.C. Code Ann. §15-78-60(4)

S.C. Code Ann. §15-78-60(4) provides that governmental entities are not liable for a loss resulting from the “adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation, or written policies.”

The Plaintiff’s legal position is set forth in her own motions for summary judgment:

The RCSD was only authorized to take the child to EPC and to transport the child to a location agreed upon by DSS. As DSS was never notified, there is a clear violation of S.C. Code Section 63-7-620(b)(2). In short, the RCSD violated South Carolina Law which as a matter of law is actionable and equates to gross neglect. There is simply no legitimate excuse as to why DSS was not notified and involved with the placement of this child. No 72-hour hearing was ever had because the RCSD did not report the matter to DSS. The Probable Cause Hearing required by the Code indicates that a hearing must be had within seventy-two (72) hours to establish probable cause. No such hearing ever took place. The procedure [sic] were not followed and were ignored by the Sheriff’s Department. Liability should be granted as a matter of [l]aw.

See Pl’s Motions for Summary Judgment, filed May 12, 2022.

The Defendants raise this exception to the waiver of immunity concerning the issue as to whether the RCSD enforced or complied with any law or otherwise failed to enforce any law, including certain statutory provisions. This Court agrees that this exception applies.

The Plaintiff's negligence theory is based on the allegation that there had been a "clear violation" of statutory laws which govern EPC provisions. In her Amended Complaints, the Plaintiff alleges that "Richland County DSS was not notified by Officer Signorino or any other individual from RCSD as required per S.C. Code Section 63-7-630."⁵ See Am. Comps., ¶ 15. Specifically, that the RCSD failed to comply with, or enforce EPC statutory laws involving the notification of DSS and the institution of a probable cause hearing within 72 hours. Consequently, the Plaintiff contends that "[n]o such hearing ever took place. The [EPC statutory] procedure[s] were not followed and were ignored by the RCSD." See Pl's Motions for Summary Judgment, filed May 12, 2022. Notably, in the Plaintiff's Amended Complaints, she alleges that the Defendants engaged in a "process not proper with the regular conduct of the proceeding. [] Defendants had a legal obligation to the Plaintiff to perform a fair and just investigation and failed to conduct a proper or suitable investigation." See Am. Comps., ¶¶ 18, 19.

Since the Plaintiff's entire theory of her case involves the RCSD's failure to adopt, enforce, and/or comply with EPC statutory protocols as set forth in § 63-7-630, this exception under the SCTCA shields the Defendant RCSD, as the participating governmental entity from liability.

C. Immunity under S.C. Code Ann. §15-78-60(6)

Per S.C. Code Ann. §15-78-60(6) of the SCTCA: "[t]he governmental entity is not liable for a loss resulting from ... [] the failure to provide (or) *the method of providing police or fire protection.*"⁶ S.C. Code Ann. § 15-78-60(6) (Emphasis added).

⁵ S.C. Code Ann. § 63-7-630 provides:

When an officer takes a child into emergency protective custody under this subarticle, the officer immediately shall notify the department. The department shall notify the parent, guardian, or other person exercising temporary or permanent control over the child as early as reasonably possible of the location of the child unless there are compelling reasons for believing that disclosure of this information would be contrary to the best interests of the child.

⁶ In *Wells v. City of Lynchburg*, 331 S.C. 296, 501 S.E.2d 746 (Ct. App. 1998), this Court recognized that a scrivener's error resulted in the omission of the word "or." After looking at the legislative history, this Court concluded that sovereign immunity under § 15-78-60(6) extends to "the failure to provide or the method of providing police or fire protection." *Id.*, at 750.

The Plaintiff alleges in her Amended Complaints that Signorino was negligent "in the investigation of the reported incident, in the treatment of the Plaintiff and her child, and in the removal of the child from the Plaintiff's custody." See Am. Comps., ¶ 16. Moreover, Signorino "risk[ed] the safety of the minor child and the Plaintiff by removing the child from Plaintiff's custody against the Court's order [and] without proper reason." *Id.*

The Plaintiff's Amended Complaints address the methods that Signorino, a law enforcement officer, chose to utilize in providing A with police protection. This would concern Signorino's various methods in protecting A from an allegedly abusive situation, including conducting interviews, performing a background investigation, and, according to the Plaintiff, ultimate removal of the child from (what appeared to be in) harm's way.

Thus, any actions and/or inactions on the part of Signorino or any Sheriff's employee -- whether negligent or not -- fall squarely within the purview of § 15-78-60(6), because the Plaintiff's pleading specifically alleges a loss which resulted from Signorino's methods in providing police protection.

D. Immunity under S.C. Code Ann. § 15-78-60(23)

Moreover, under the provisions of the SCTCA, the Defendant RCSD enjoys absolute immunity for malicious prosecution. One of the six elements that the Plaintiff needs to prove is "the institution or continuation of original judicial proceedings." In virtually identical language, S.C. Code Ann. § 15-78-60(23) provides absolute immunity for the "institution or prosecution of any judicial or administrative proceeding." See S.C. Code Ann. § 15-78-60(23). Therefore, because an element of a malicious prosecution cause of action falls squarely within an immunity provision, a governmental entity enjoys absolute immunity for this cause of action.

This very issue was adjudicated in the case of *McCoy v. City of Columbia*, 929 F.Supp.2d 541 (D.S.C. 2013), where District Judge Joseph F. Anderson Jr. ruled that a malicious prosecution claim against a municipality was barred by S.C. Code Ann. § 15-78-60(23). Judge Anderson held:

The City also contends that it is immune from liability for McCoy's malicious prosecution claim under the SCTCA's immunity relating to "the institution or prosecution of a judicial proceeding." S.C. Code Ann. § 15-78-60(23). The Magistrate Judge recommended that the court grant the City's motion for summary judgment on this issue because McCoy's cause of action for malicious prosecution plainly falls within this express exception. The court agrees.

929 F.Supp.2d at 567, n. 10.

The United States District Court, by and through various District Court judges, has ruled in accordance with Judge Anderson's finding and, specifically, that the governmental entity enjoys immunity for malicious prosecution under the provisions of the Act. *See Terrell v. City of Spartanburg*, No. 7:17-CV-2738-BHH, 2018 WL 4775579 (D.S.C. Oct. 3, 2018) ("The City is immune from liability for malicious prosecution under the South Carolina Tort Claims Act. S.C. Code Ann. § 15-78-60(23) ... "); *see also Thompson v. City of Columbia*, No. CV 3:05-1605-CMC, 2005 WL 8164911, at *4 (D.S.C. July 21, 2005) ("It is fairly clear from the plain language of the statute, particularly § 15-78-60(23), that the legislature intended to exclude claims for malicious prosecution from the waiver of immunity for governmental entities in the Tort Claims Act."); *see also Palmer v. Santanna*, No. 2:16-CV-3350-PMD-MGB, 2018 WL 1477600, at *5 (D.S.C. Mar. 27, 2018) ("The Town of Summerville is immune from liability on this claim (as a result of) S.C. Code Ann. § 15-78-60(23); ... While the Court recognizes that Plaintiffs experienced significant consequences as a result of Mr. Palmer's arrest and detention, the Defendants are nonetheless immune from suit ..."); *see also Brown v. Dorchester Cty. S.C.*, No. 2:16-CV-01311-MBS-MGB, 2017 WL 9673618, at *6 (D.S.C. Nov. 29, 2017) ("[T]he crux of Plaintiff's claim against Defendant is that the criminal charges against him were maintained for many months after the Solicitor's Office was made aware that probable cause was lacking. Such a claim falls squarely within § 15-78-60(1) and § 15-78-60(23).")

Because of these reasons, the Plaintiff's malicious prosecution claim is dismissed.

IV. ANALYSIS / EMPLOYEE IMMUNITY

The SCTCA "constitutes the exclusive remedy for any tort committed by an employee of a governmental entity." S.C. Code Ann. § 15-78-70(a). Further, an employee of a governmental entity is immune from liability for tortious acts committed within the scope of his official duties. Such an employee who allegedly commits a tort while acting within the scope of his official duty is not liable except for actual fraud, actual malice, intent to harm, or a crime involving moral turpitude. S.C. Code Ann §15-78-70(a) and (b).

There are no allegations that the Defendant Signorino was acting outside the scope of her official duties and none of the exceptions set forth in subsection (b) are applicable with respect to her. As a result, Defendant Signorino in her individual capacity is entitled to employee immunity under S.C. Code Ann. § 15-78-70(a) and (b) and the Plaintiff's claims against her are dismissed as a matter of law.

Moreover, South Carolina statutory law further immunizes Signorino, a police officer and mandatory reporter, as she participated in an investigation and/or judicial proceedings resulting from the reporters. *See* S.C. Code Ann. § 63-7-390 (“A person required or permitted to report pursuant to Section 63-7-310 or who participates in an investigation or judicial proceedings resulting from the report, acting in good faith, is immune from civil and criminal liability which might otherwise result by reason of these actions. In all such civil or criminal proceedings, good faith is rebuttably presumed.”) As a sustaining basis for dismissal, this Court notes that the Plaintiff has made no showing that would overcome the presumption of Signorino’s good faith in this matter.

PLAINTIFF’S MOTIONS FOR SUMMARY JUDGMENT

As this Court considers the Plaintiff’s motions for summary judgment, and in taking the evidence in the light most favorable to the Defendants, this Court finds that the above § 15-78-60 exceptions under the SCTCA shields the Defendant RCSD (a/k/a Sheriff Lott) from liability. Consequently, since the Sheriff (as the constitutional officer employing Signorino at the relevant times) is entitled to absolute sovereign immunity, then no genuine issue as to any material fact exists, and the Defendants are entitled to a judgment as a matter of law.

CONCLUSION

Based upon the foregoing reasons, **IT IS THEREFORE ORDERED** that the Defendants’ motions for summary judgment are **GRANTED** in both matters [C/A Nos. 2021-CP-40-01484 and 2021-CP-40-01971] and that the Plaintiff’s causes of action against the Defendants are hereby dismissed with prejudice. **IT IS FURTHER ORDERED** that the Plaintiff’s motions for summary judgment in both matters [C/A Nos. 2021-CP-40-01484 and 2021-CP-40-01971] are **DENIED**.

IT IS SO ORDERED.

The Honorable Diane Schafer Goodstein
Circuit Court Judge

Columbia, South Carolina

_____, 2024



Richland Common Pleas

Case Caption: Lisa Wallas vs Richland County Sheriffs Department , defendant, et al
Case Number: 2021CP4001484
Type: Order/Summary Judgment

It is so Ordered!

s/Diane S. Goodstein

Electronically signed on 2024-10-21 11:35:32 page 9 of 9

ELECTRONICALLY FILED - 2024 Nov 14 3:22 PM - RICHLAND - COMMON PLEAS - CASE#2021CP4001484

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Lisa Wallas,)
)
Plaintiff,)

C.A. No.: 2021-CP-40-01484

vs.)

AFFIDAVIT OF JOHN M. KNOTTS

Richland County Sheriff's Department,)
South Carolina Department of Social)
Services, Richland County Department)
of Social Services, and)
Casey Elizabeth Signorino,)
)
Defendants.)

PERSONALLY appeared before me John M. Knotts who, upon first being duly sworn, states as follows:

1. My name is John M. "Jake" Knotts and I am a life-long legal resident of Lexington County, South Carolina.
2. I am at least 18 years of age and competent to execute an affidavit.
3. Statements made in the Affidavit are based upon my personal knowledge, training, education and experience. All opinions expressed herein are to a reasonable degree of professional certainty.
4. I began my career in law enforcement in 1968 in a position with the Columbia Police Department working as a Beat Patrolman. In 1969, I helped form the Columbia Police Department Riot Squad.
5. I became the Coordinator of Special Units for the Columbia Police Department in 1970. During this time, I was promoted to a Detective in the Narcotics, Vice and Juvenile Unit under Captain John Earl Dennis.

6. In 1974 I became a Major Crime Investigator with the Columbia Police Department Detective Unit.

7. In 1974 obtained my Associates Degree in Criminal Justice from Palmer College.

8. In 1975 I obtained my Associates Degree in Police Administration and Corrections Administration from Midlands Technical College where I received a double major.

9. In 1975 I began classes at the University of South Carolina to seek a Bachelor's Degree in Criminal Justice.

10. In March of 1975 I became the Chief Investigator for the Fifth Judicial Circuit Solicitor's Office under Solicitor James C. Anders. At this time, I also was the Special Investigator for the Fifth Judicial Circuit Solicitor's Grand Jury covering Richland County and Kershaw County.

11. In 1976 I graduated from the FBI Prosecutor Investigative School.

12. In 1976 I formed a Fugitive Squad and White Collar Crime Division of the Fifth Judicial Circuit Solicitor's Office for Richland and Kershaw Counties.

13. In 1977 I graduated from the FBI Academy Quantico, Virginia, Class 111.

14. In 1977 I received a Master's in Firearms from the FBI Academy.

15. I served as the Lexington County Deputy Coroner from 1988 to 1993 under Harry Harmon.

16. I was elected and served in the South Carolina House of Representatives from 1994 to 2000 and served on the Judiciary Committee and was appointed by Speaker Wilkens as the first Freshman non-lawyer in modern history.

17. I was co-author for the CWP along with Representative Young. We wrote the bill and it was passed into law.

18. I served on the South Carolina House of Representatives Judiciary Committee Special Laws Subcommittee in 1995 to 2000 and later became Vice Chair of the Judiciary Committee.

19. I began process serving in 1980 to present.

20. I received the South Carolina Crime Victims Award in 1995, 1996, 1997, and 2007.

21. I was named the South Carolina House of Representatives Freshman Legislator of the Year in 1996.

22. I served on the South Carolina Senate Rules Committee from 1998 to 2002.

23. I received the Lexington County Sheriff's Award in 2001.

24. I was elected to the South Carolina Senate in April 2002 where I served on the Judiciary Committee until to 2012. During this time I severed on the Judicial Merit Selection Committee. I also served on the South Carolina Senate Rules Committee as Chairman.

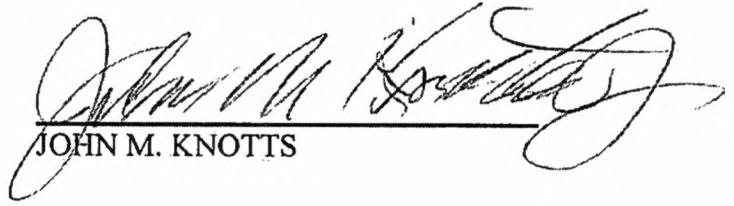
25. Through my positions, experience, and training, I am well-versed in the law enforcement procedures and protocols for dealing with juveniles and child custody cases.

26. During my time serving as a Law Enforcement Officer and on the Judiciary Committee in both the South Carolina Senate and House, I dealt with enforcing and drafting laws regarding the South Carolina Department of Social Services and protocols.

27. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment by contempt.

(Signature on the following page)

FURTHER, Affiant sayeth not.


JOHN M. KNOTTS

SWORN to before me this 27th
day of June, 2022.

Diane M. L. Corley (SBAL)

Print: Diane M. L. Corley
Notary Public for South Carolina
My Commission Expires: 3-29-28

S. Jahue Moore*
J. Mark Taylor*
James Edward Bradley*
Sheila McNair Robinson
Christian G. Spradley
William H. Edwards
Stanley L. Myers
Jane H. Downey*
S. Jahue Moore, Jr.
John C. Bradley, Jr.
Melissa K. Moore
William B. Fortino
Ralph Nichols Riley, Jr.
Lester McGill Bell, Jr.
Bryan C. Letteer
Edward Hood Dawson
Sierra D. Carini
Nicole E. Jackson

Robert D. Hazel†
C. David Sawyer, Jr.*
Billy C. Coleman
1916-2019

June 11, 2020

RECEIVED

APR 02 2025

SC Court of Appeals

Richland County
Dept. of Social Services
3220 Two Notch Rd.
Columbia, SC 29204

RE: A W:

Gentlemen:

This law firm represents Lisa Wallas who is the custodial parent of A W:

The mother of this child has had serious issues with controlling the child for some while. The child ran away from home and on May 22, 2020, the mother/custodial parent reported the child as a runaway.

Apparently, an Officer Signorino located the child on May 26, 2020. The Officer I am told refused to return the child to the custodial parent and gave the mother two choices: 1. Foster care or 2. Placement with a friend or relative.

After receiving the above two choices, the mother suggested the possibility of placing the child with the father if the Sheriff's Department would not bring the child home as provided in the court order. The officer refused to return the child home and refused to allow the mother and the father to speak. Following the conversation, the office advised she was placing the child with the father.

My client was advised she would be "investigated" for approximately two months. To date, no investigation has taken place.

My client has a full custody order. The father has only visitation rights. The child has been removed from the mother's custody without any form of court decree and without any hearing.

The statutory authority is fairly clear when a child is moved from a custodial parent by the authorities, the matter must be turned over the DSS and there must be an emergency hearing. None of the procedural safeguards required by statute appear to have been met. Thus, it appears the

2 | Page
June 11, 2020
Richland County Dept. of Social Services
RE: A W:

child has been removed in violation of due process. It also appears DSS was only notified when the mother notified DSS of the removal. Based upon what we have learned from the authorities at DSS, the Sheriff's Department did not notify DSS so that the procedural hearings could take place.

DSS was advised of this situation June 3, 2020 by virtue of a telephone call from the custodial parent.

In short, it appears this child has been removed from the home on nothing more than a decision by a police officer. The removal has apparently has been placed without the consent of the mother and with the mother having been given choices which the officer did not have the authority to make. Further, we believe the officer was required to contact DSS as required by statute.

We would greatly appreciate your considering this matter as a formal claim against the Sheriff's Department and against DSS if in fact DSS was notified. We would appreciate your placing the insurance carrier for the Department and DSS on notice and we would appreciate someone contacting us.

We also demand pursuant to the South Carolina Freedom of Information Act that all documentation regarding this child or the incident in question be provided. Specifically, but without limiting the generality of the foregoing, we hereby demand a copy of all incident reports; written contracts; notifications; family plans; communications between the Sheriff's Department and DSS; notifications to DSS; photographs; written statements; and any and all documents in the possession of either DSS or Richland County Sheriff's Department which would justify the violation of the existing court order in this matter and the taking of this child in derogation of the rights of the custodial parent.

My client has custody of this child. Without any authority at all and without any form of hearing, the Sheriff's Department appears to have taken upon itself to deprive my client of custodial rights in violation of a written court order. My client considers this to be a very serious matter.

Please be advised that my client hereby further demands that the child be returned to her custody pursuant to the court order. Ms. Wallas has a good relationship with her ex-husband and does not want to be forced to bring him back into court for contempt for keeping the child in violation of a lawfully executed court order. I can assure you this situation has placed a great strain on the relationship between Lisa and her ex-husband.

I would greatly appreciate someone immediately contact me regarding this child so that we can arrange for her prompt return and so that we can discuss the issue of damages resulting from what appears to be a rather clear violation of the statutory law of South Carolina in regard to the removal of children.

3 | Page

June 11, 2020

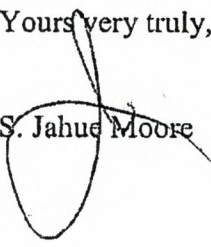
Richland County Dept. of Social Services

RE: A W

Thank you for your attention to this matter.

Yours very truly,

S. Jahue Moore



SJM/arj

cc: Lisa Wallas

STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
COUNTY OF RICHLAND)

Lisa Wallas,)
)
Plaintiff,) TRANSCRIPT OF RECORD
) 2021-CP-40-01484 and
) 2021-CP-40-01971

-vs-)

Richland County Sheriff's Department,)
et al.,)
)
Defendants.)

Lisa Wallas, et al.,)
)
Plaintiffs,)

-vs-)

Richland County Sheriff's Department,)
et al.,)
)
Defendants.)

June 21, 2024
Richland, South Carolina

B E F O R E:

HONORABLE DIANE GOODSTEIN, JUDGE

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

S. JAHUE MOORE, ESQUIRE
Attorney for the Plaintiffs

ROBERT D. GARFIELD, ESQUIRE
Attorney for the Defendants

Transcribed by Amy Pennica, from Webex

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INDEX

(WHEREUPON, there were no exhibits marked or testimony taken during this hearing.)

1 THE LAW CLERK: So that will bring us to Lisa Wallas versus
2 Richland County Sheriff's Department. And there are two motions
3 on the roster for this matter, Judge. It's a motion for summary
4 judgment on behalf of defendants, RCSD and Sig- -- I'm not
5 sure -- and then another motion for summary judgment filed by the
6 plaintiff.

7 THE COURT: All right. Yes. There he is.

8 MR. GARFIELD: Hello, Your Honor.

9 THE COURT: Hi, Mr. Garfield and Mr. Moore.

10 How are you feeling today, Mr. Moore? Are you okay?

11 MR. MOORE: It was a rough night, but I'm okay. I'm okay.

12 THE COURT: Are you sure?

13 MR. MOORE: I'm as okay as I'm going to get for a while, I
14 think. It was -- we had some events last evening, but I'm over
15 it, and I'm just tired -- a little tired this morning, but I'm
16 going to be okay.

17 THE COURT: All right. Now if you want to postpone, I know
18 Mr. Garfield would certainly not object to that at all.

19 Right, Mr. Garfield?

20 MR. GARFIELD: Of course, Your Honor.

21 MR. MOORE: I just need -- I want to go ahead and get these
22 motions out of the way so we can go ahead and get a mediation
23 done, Your Honor. It's important for us to move forward. Can I
24 ask one personal question?

25 THE COURT: Sure.

1 MR. MOORE: You are not kin to Robin Schafer (ph), are you?

2 THE COURT: Yes.

3 MR. MOORE: How are you related to Robin?

4 THE COURT: He is my brother.

5 MR. MOORE: I don't know if he'll remember me, but he used
6 to play his guitar in the Honeycombs when we were there for the
7 summer program. He's one of the sweetest kids I ever met.
8 Please tell him that I said hello.

9 THE COURT: That's remarkable. I will. I will. He's
10 retired. He's a turkey.

11 MR. MOORE: He's funny as heck. What's he doing now?

12 THE COURT: He's retired.

13 MR. MOORE: What -- did he work -- did he work at the
14 business or --

15 THE COURT: He -- no. He actually was one of the very first
16 employees of the South Carolina Lottery.

17 MR. MOORE: He, as I understand it -- we went to the summer
18 program together in the summer of 1973. And I think he passed
19 and got in and decided not to go to law school.

20 THE COURT: He did. He did. He ended up graduating with a
21 master's from Virginia Theological Seminary, with which he did
22 absolutely nothing. Listen, my father invested so much money in
23 his education. It was amazing. It really was.

24 MR. MOORE: Robin was -- I can just remember him sitting on
25 that single bed in the Honeycombs playing that guitar. And we

1 were all totally stressed out for the pre-admission program.
2 We'd come in there in the evenings and drank a little beer and
3 listened to him play on the guitar. And I always wondered
4 whatever happened to Robin.

5 THE COURT: You know what, he's had a terrific marriage. He
6 absolutely adores his wife, who is, like, the sweetest. It's
7 like -- I don't know. Thank God he found her because she's
8 perfect for him. And they've had one child who obviously is the
9 apple of their eye, and he's grown and married. So he's done
10 very, very nicely. Very nicely.

11 MR. MOORE: Where do they live?

12 THE COURT: He's in (inaudible).

13 MR. MOORE: That's good. Tell him -- he probably won't even
14 remember me.

15 THE COURT: Oh, yes, he would. He would. He never forgets.
16 He never forgets anyone. Yeah, absolutely.

17 MR. MOORE: This owl and two other guys and Robin all lived
18 right next door to each other in the Honeycombs, and we had a
19 heck of a time up there that summer. It was awful. Hot as hell.
20 It was terrible.

21 THE COURT: Well, you know, it's interesting. Both of my
22 brothers are very musical. Very, very musical. My other brother
23 was working in recording studios when he was in the 7th grade
24 and, you know, used to play with a band. They played down at
25 Myrtle Beach. And they had to sneak him in the back because,

1 obviously, he had no business being there. And he just --
2 they're both terrific musicians; and, you know, it would have
3 been lovely if they could have found, you know, a means to have
4 that be their -- not their -- not just their playtime but their
5 work. That would have been really, really good. But Robin is an
6 amazing musician. He really is. And you heard that. And when
7 he was at UNC, same thing would happen except James Taylor would,
8 like, stumble in the room and hang out. You know, if only he had
9 followed in his wake.

10 MR. MOORE: Robin was just -- but he was such a sweet guy.

11 THE COURT: He's a hot mess.

12 All right. Gentlemen, what we got?

13 MR. GARFIELD: Your Honor, I think we have cross-motions for
14 summary judgment. And, again, good morning. Robbie Garfield on
15 behalf of the sheriff and Casey Signorino. Just before I get
16 going, Judge, I want to apologize for the confusion or the
17 miscommunication the other day to you and to Mr. Moore. This is
18 really the second or third time we've been up for a hearing. And
19 through no one's fault, I think that there was maybe a little
20 miscommunication about protection, and I'll take the blame on
21 that. So thank you.

22 THE COURT: Not a problem at all. You know lawyers are --
23 lawyers are too busy.

24 MR. GARFIELD: That's one way to describe it. So, you know,
25 I think the basic facts here, Judge -- and I don't think there'll

1 be, you know, much of a quibble between Mr. Moore and I. So this
2 really centers on a 15-year-old girl -- she is actually, like,
3 four days before her 16th birthday -- and her mother, who is the
4 plaintiff, who has filed two actions. One on her daughter or
5 minor daughter's behalf and one on her own. But the facts center
6 on this one Friday afternoon. It's May 22nd of 2020 when,
7 apparently, this teenage girl runs away from home, and her mom,
8 the plaintiff, reports her to law enforcement as a runaway.
9 Apparently, this was not the first time that law enforcement was
10 involved; but, you know, that's just really tangential. So this
11 happened on a Friday, but the relevant events occurred on this
12 next Tuesday. This is May 26th of 2020. And here at the Dutch
13 Fork High School the child's teacher and a child's friend's
14 parent contacts the sheriff's department saying, "Hey, look. We
15 found this runaway child, you know. Could you respond?"
16 Responding deputy came. She was by herself. Casey Signorino.
17 And she makes contact with both of these two reporters of what
18 happened and the child. She has a conversation with the girl,
19 and the girl says -- gives a pretty long description of what had
20 happened from her point of view. She says that she did run away
21 from home, and she did that the previous Friday because her mom
22 had subjected her -- I'm going to be very ambiguous here -- to
23 some form of abuse. She gives a description of some physical
24 stuff, some emotional stuff -- but whatever. We're talking about
25 some form of abuse. Deputy then goes back to her patrol car and

1 telephones the mama and the dad. And, in fact, she puts them on
2 three-way. And the deputy tells them, "Look. I've got your
3 daughter here. She's at the high school. She's making certain
4 claims against the mama." And the parents both agree that --
5 they are divorced under a family court order -- that the mom has
6 primary custody. The dad isn't cut out altogether. He's got
7 visitation, but the mama wants her home. So now the deputy is a
8 little stuck here, not talking about legally yet, but just trying
9 to figure out what to do. So in her way of approaching this, I
10 guess, she tries to mediate the situation on this three-way call,
11 and she tells the parents, "Look. I've really got two options.
12 I can either EPC this child or place her with a friend or a
13 relative or someone we can agree with." This conversation goes
14 on a little bit, and the mom agrees, dad agrees reluctantly for
15 the, you know, the dad to have the child at his house until sort
16 of the, you know, some of the basic issues sort of being ironed
17 out. And, you know, quite simply -- and, you know, Mr. Moore's
18 going to expound on this, obviously, but according to the amended
19 complaint, the mom sues the Richmond County Sheriff's Department.
20 And, as Your Honor knows, under the Tort Claims Act, that would
21 be better phrased as "Sheriff Lott in his official capacity," but
22 sues both him and the deputy. No allegation, no evidence that
23 she was acting in any other capacity then, you know, within the
24 scope of her duties. And the theory is that based on this
25 deputy's involvement that, you know, she was improperly or

1 illegally not returned to her mother.

2 Now, as I said earlier -- and each time I've kind of gotten
3 ready for this, it's kind of hit me the same way to put myself in
4 the Court's position to how to address two cross- -- two
5 cross-motions for summary judgment without really knowing all the
6 facts other than the lawyers telling you their version of what
7 happened. And so it being a little bit of an unusual situation,
8 the plaintiff claims that she's entitled to summary judgment
9 because the Sheriff's Department didn't follow legal procedures
10 and all that kind of thing. The sheriff claims that the EPC
11 statutes don't apply because the child was actually never taken
12 into custody, was never taken into protective custody. So where
13 I'm going here is that the potential quandary for the Court --
14 and I don't want to pre-suppose anything from the Court, but the
15 potential quandary for the Court would be since the Court would
16 be viewing each party's motion for summary judgment in a light
17 most favorably to the other --

18 THE COURT: Right.

19 MR. GARFIELD: -- sort of heading for a factual gridlock, so
20 to speak. And maybe this confusion could be avoided because of
21 this. The good news is that we have a body cam. We have a body
22 camera video that I have watched several times that I am pretty
23 certain about what I'm about to represent. It's worn -- the body
24 camera video is Signorino's video. It's about 90 minutes long.
25 And when I say -- I'm certain it shows the entire interaction.

1 When the deputy pulls up, talks to the reporters, sees what they
2 have to say. It captures the dialogue with the daughter, it
3 captures all interactions between mama and the dad and the
4 daughter and the deputy and the deputy doing what she does.
5 Right or wrong. It just shows what it objectively shows. So the
6 reason, you know, why I say that is that, you know, rather than,
7 you know, sort of get in the weeds of a factual, you know,
8 argument that I think would kind of compel us to show in the
9 video anyway. Maybe it's in the best interests of everyone's
10 time for the parties to agree to submit this video to Your Honor
11 as indisputable video evidence for Your Honor's consideration.
12 And I think what allows us to do this -- there's a U.S. Supreme
13 Court case, it's Scott versus Harris. It's 550 U.S. 3702. It's
14 a 2007 case. And I'm happy to email to Your Honor and
15 Mr. Moore -- but the case just really stands for a recognition by
16 the Supreme Court that video evidence -- it really has a
17 controlling effect over things like witness testimony, dispute of
18 facts. It, you know, in context of -- or to assist the Court
19 when ruling on a dispositive motion such as a summary judgment.
20 And my idea or suggestion might be -- is to submit this and allow
21 counsel to submit maybe memos in support. We have 18 or 20
22 grounds to our summary judgment. You know, I'm not saying I
23 would argue every one of those today. I really think that
24 there's four or five primary grounds. But in any case to submit
25 maybe a, you know, a brief or maybe even proposed orders by --

1 you know, Mr. Moore and myself both could submit those to allow
2 Your Honor, you know, to consider this and then maybe even come
3 back to us with, you know, with questions. I think that might be
4 the most prudent starting point. But if Your Honor's not so
5 inclined, I'm prepared to make my full argument but with a caveat
6 to that the body cam would really kind of tell the story.

7 THE COURT: Okay. Have you seen the body cam, first of all,
8 Mr. Moore?

9 MR. MOORE: I have not, Your Honor.

10 THE COURT: Okay. Well, that -- if he hasn't had a chance
11 to see it, that really does put him at a disadvantage to even be
12 able to make that determination.

13 MR. GARFIELD: He should have one, Your Honor. But if he
14 doesn't, I'm happy to provide one.

15 THE COURT: Okay.

16 MR. MOORE: I'd appreciate it very much. But, Your Honor,
17 the problem we have here is that the video is actually
18 irrelevant. The video has nothing to do with the actual cause of
19 action that exists in this case. What basically happened here --
20 and I can -- I have emailed the deposition of the police officer
21 to Your Honor. The question really is not whether or not the
22 officer should have removed the child. The officer clearly
23 indicates in her deposition that she made the decision to remove
24 the child. There was no physical evidence of any form of abuse
25 on the child and -- but she made the decision that that child was

1 not going home to the custodial parent, and the child was
2 removed. Now, once that child is removed -- and what she did is
3 she made the decision she was going to give the child to the
4 father. If we look at, I believe it is page 38 of the
5 deposition, it says:

6 "QUESTION: And in that phone call, did you tell -- did she
7 tell you she wanted that child returned?

8 "ANSWER: Yes.

9 "QUESTION: And you said of course, correct?

10 "ANSWER: No, not to her.

11 "QUESTION: You told her that wasn't an option?

12 "ANSWER: Yes, sir. That's correct.

13 "QUESTION: All right. Who made the decision not to return
14 the child to the mother? Where the child had been living
15 was not an option?

16 "ANSWER: I did."

17 And we know that the officer has basically told us then that she
18 made an EPC, emergency protective custody decision, to remove the
19 child from the custody of the mother. The officer told us that
20 in making that decision, she had no physical evidence of abuse,
21 and she did not consider the court orders because, in making an
22 emergency protective custody removal, she said court orders are
23 irrelevant. Okay. She made the decision to place this child
24 with the father as part of an emergency protective custody
25 decision on her part. Whatever she saw, she had a right to do

1 that. She was law enforcement. The code section says you can do
2 it. Now she didn't really have probable cause, and we can argue
3 about that later, but the truth of the matter is it doesn't
4 matter. What happened was this: Once that child was removed,
5 there was never any involvement with DSS. They didn't report it
6 to DSS. They didn't have a 48-hour hearing, which is required
7 under the code. And when you ask Signorino what was the
8 Sheriff's Department supposed to do -- she put it in the
9 computer, and she says Elizabeth, somebody, was supposed to have
10 made the report to DSS to get the 48-hour hearing. There was no
11 48-hour hearing. As a matter of fact, the child stayed in limbo
12 for weeks without any involvement with DSS. We finally had to
13 make contact with DSS when they realized that there had been no
14 48-hour hearing. They realized that this child had been in
15 emergency protective custody for six weeks with absolutely
16 nothing being done and no follow up investigation. They put the
17 child back home with the mama.

18 Now, the videotape -- and I appreciate Robbie willing to
19 send me one, and I would love to see it, but that has nothing to
20 do with the fact that the sheriff's department acknowledges this
21 child was removed on emergency protective custody, acknowledges
22 that DSS was not notified, acknowledges there was no 48-hour
23 hearing, and acknowledges that the reason they didn't have proper
24 notification or a 48-hour hearing was their fault. Somebody at
25 the sheriff's department dropped the ball as far as notifying DSS

1 and getting the hearing. So the question really becomes why was
2 it that the procedural safeguards as required by the statute were
3 not given in a situation where an officer made a decision on
4 scene to do an emergency protect custody. And the answer is we
5 screwed up. And that's basically where we are. The arguments
6 they're making is "Well, there was good cause to basically take
7 the child into emergency protective custody." That's a pretty
8 good argument. The child has got serious emotional issues.
9 She's nutty as a fruitcake, or at least was. She's better now.
10 And mom was having a hell of a time with this child. But law
11 enforcement is not judge, jury, and executioner. When law
12 enforcement takes a child into emergency protection custody, it's
13 law enforcement's job only to do an emergency turnover of the
14 child to DSS. It is DSS's job to investigate, give the 48-hour
15 hearing, have the matter in court, and allow the parents -- the
16 custodial parent -- the right to do what the Family Court says
17 the custodial parent has the right to do, which is to have
18 custody. This law enforcement officer clearly told mom, "You're
19 not getting this child back even though you have custody." But
20 she also says, "There should have been a 48-hour hearing." That
21 she doesn't know why DSS didn't get called. She says she's
22 checked on it, and Elizabeth says that it got sent to the wrong
23 place. And that basically is a problem. And that's where the
24 problem lies. I don't think the Court has to look at this for
25 90 minutes, although I would like to have a copy of the tape.

1 THE COURT: I got it. I got it.

2 Okay. I think that's your answer, Mr. Garfield.

3 MR. GARFIELD: Yes, ma'am.

4 THE COURT: Okay. All right. So here we are. And I think
5 that Mr. Moore's just argued his motion for summary judgment.
6 And let me hear from you.

7 MR. GARFIELD: Yes, ma'am. I think this starts -- when I
8 listen to what Mr. Moore is saying, he is suggesting facts that
9 are in the -- from his standpoint that are in the record that are
10 not in the record. There is no evidence that this child was
11 taken into emergency protective custody. As Your Honor knows,
12 the EPC statute provides law enforcement officers in if there is
13 probable cause to believe that the child's, you know, physical
14 health, mental -- you know, mental, emotional, you know, status
15 is at risk, those kind of things would allow law enforcement to
16 make -- you know, take someone into custody. Not under arrest,
17 but allows that officer to make that decision at the scene to
18 then remove the child and then take her to, you know, a safe
19 place, a hospital, you know, a school or whatever it is. And
20 then the emergency protective custody protocols are initiated,
21 which necessarily are all the things that Mr. Moore is
22 suggesting. DSS is contacted. DSS would send a representative.
23 They would make a report. They would sort of assume
24 jurisdiction. There would be a 72-hour hearing. All of this is
25 under the statutory scheme that provides law enforcement and DSS

1 a roadmap on what to do. The series of questions that Mr. Moore
2 asked Ms. Signorino at her deposition -- although I think he was
3 paraphrasing a couple of times -- he asked her for, you know,
4 much of the deposition, "Wouldn't you agree with me that the EPC
5 protocols and the requirements -- statutory requirements make it
6 your responsibility to do this and to do this and to do this?"
7 Obviously, she's going to say, "Yes" to those things. And what
8 Mr. Moore, in maybe a little bit of a blind spot -- and I'm not
9 saying that, you know, anybody should be, you know, penalized for
10 not, you know, having the video, looked at it, and all that, but
11 the video tells the story. And anyone looking at this video can
12 see exactly what happened. And, you know, if the officer, you
13 know, made -- you know, acted with poor judgment or she made some
14 sort of discretionary kind of thing, made an act or, you know,
15 made decisions out there at the field that were part of her, you
16 know, discretion as a law enforcement officer, we would then like
17 the opportunity to raise at, at a minimum, certain immunities
18 under the South Carolina Tort Claims Act.

19 As Your Honor knows, and we -- you know, we put this in our
20 notice of motion that the South Carolina Tort Claims Act governs
21 all actions against all governmental entities. That it -- you
22 know, the sovereign immunity. But then they carved out these 37
23 exceptions to the waiver of sovereign immunity. I know Your
24 Honor knows all about that. We raised three or four certain
25 subsections. You know, one would be based on what I'm saying,

1 subsection 5 of 15-78-60 that says that the entity, which would
2 be the sheriff, would not be liable for a loss resulting from the
3 subsection 5, again, the exercise of discretion or judgment by
4 the governmental employee or the performance or failure to
5 perform any act or service which is in the discretion or judgment
6 of the employee. So I would say, well, which is it? Was she
7 EPC'd, or was she not EPC'd? If I'm correct and this deputy
8 carried on a conversation between mom and dad and tried to, you
9 know, build a consensus or find a solution before triggering all
10 the EPC things, and if she made bad decisions out there that were
11 in her discretion, which is basically called mom and dad and try
12 to troubleshoot this thing, we would allege that that would
13 constitute an immune function. Also, if he wants to say, "Well,
14 no, Mr. Garfield is incorrect. It is not about her bad
15 decision-making. It's about something else." And this would be
16 part of his motion for summary judgment. The last, you know,
17 sentence is the procedure was not followed and was ignored by the
18 sheriff's department. And he's referring to the EPC procedures.
19 And then he says, "Liability should be granted as a matter of
20 law." Well, if that's the analysis of the Court, and if that's
21 his primary focus, well, then under subsection 4 of these same
22 list of subsections -- says that the entity's not liable for --
23 and I'm going to shorten this piece up -- when it says that the
24 loss results from the failure to adopt or enforce any law. So if
25 she's going along with the law and not crossing her T's and

1 dotting her I's, or she's not adopting or enforcing the laws on
2 the books, then also the sheriff would have absolute sovereign
3 immunity when one of his deputies go out and does that. There
4 are other subsections here that refer to, you know,
5 administrative inactions of a quasi-judicial nature. Over the
6 years Courts have viewed these type of functions of a law
7 enforcement officer to be of a quasi-judicial nature because it
8 provides them a unique duty under the statute to take a child
9 into -- in a protective custody which triggers this entire --
10 these protocols. Another one is subsection 6 -- the entity is
11 not liable when the officer provides a certain method of police
12 protection. This officer -- Your Honor, a simple viewing -- and
13 Mr. Moore would have this opportunity too -- of the video to see
14 that the officer is asking many questions to try to understand as
15 to whether she needs to try to protect this child and what to do.
16 And, finally, you know, this goes back to what I think -- part of
17 Mr. Moore's questioning at Deputy Signorino's deposition is that
18 it's more of, you know, here you are, you're at the scene, you
19 know, you're not returning the child to the mother, and you had a
20 duty to do this and you didn't comply with the duty. So I would
21 just really bring up two brief points on this. First of all,
22 there simply is no duty conferred to law enforcement in this kind
23 of scenario. Because I believe years ago I argued in front of
24 Your Honor -- I think there was, like, an Orangeburg case -- but
25 I sort of have a deja vu. There was an argument that it's not

1 uncommon for -- to make on behalf of governmental entities, and
2 law enforcement is the public duty doctrine, and the doctrine
3 holds that a duty exists only with respect to the public and not
4 as to any individual. And this is sort of the essence of a
5 negligence claim -- because unless there's a duty that's been
6 expressly created, for instance, by a special relationship or by
7 statute that would be one thing, but there's nothing like that --
8 that applies in these kind of -- in these allegations in this
9 case. And, really, at worse, that there is -- you know, I would
10 say, you know, kind of reading over this deposition would be more
11 of a negligent misrepresentation theory. And here's what I mean
12 by that. The deputy interceded. The deputy at the scene made
13 decisions, and she made certain representations to the mama and
14 to the dad on the phone as to matters of law. She says, you
15 know, "Here's the EPC, here's," you know, "what it is, and here's
16 what it is not." And the plaintiff here claims that her
17 representations were, I don't know, erroneous and that she relied
18 to her detriment and she relied on what the officer said and it
19 was because of that she was placed with the dad and she had to
20 deal with whatever she had to deal with.

21 You know, quite simply, there is a case -- and, again, I
22 could provide this -- which is Carolina Chloride versus Richland
23 County. It's 394 S.C 154. It's a 2011 Supreme -- State Supreme
24 Court case. And this case really falls in-line with several
25 other cases going all the way back to 1992, which says the exact

1 same thing. The 1992 case is AMA Management Corporation. It's a
2 1992 case, and this is cited within Carolina Chloride. And the
3 Supreme Court has stated throughout all this time that "The duty
4 of care is not a duty to take every possible care, still less is
5 it a duty to be right. It is the familiar duty to exercise that
6 care a reasonable man would take in the circumstances." They
7 continue, "The plaintiff, as part of his case, must show that his
8 reliance on the misrepresentation was reasonable. In other
9 words, there is no liability for casual statements,
10 representations as to matters of law or matters which plaintiff
11 could ascertain on his own in the exercise of due diligence." So
12 that's the end of quote. So here we've got the plaintiff, the
13 mama, that is now saying, "Well, I relied on what the deputy told
14 me to do what I did." If there was a Family Court order, and she
15 had counsel -- if she was represented by counsel, she made a
16 decision that she relied on the officer. So the upshot here is
17 no matter how she wants to present this negligence claim, the
18 deputy, number one -- the sheriff, number one, should enjoy
19 sovereign immunity, but, number two -- I didn't get to this part
20 under 15-78-70 -- she acted within the scope of her official
21 duties she would be an improper party defendant. It would solely
22 be the sheriff. So that's more of a procedural aspect to this,
23 you know, sort of like at a minimum. But so it either
24 constitutes an immune function, or he is unable to show duty.
25 And like I stated, I'm not trying to -- now that he has not seen

1 the video, I'm not trying to prevail on summary judgment unless
2 Your Honor's inclined to grant it, you know, right here, but in
3 fairness to everybody and in completeness of the record, like I
4 said, we would be more than happy to submit the video in an
5 opportunity to Mr. Moore to, you know, review and digest it. But
6 that is our summary judgment argument. And I certainly
7 appreciate --

8 THE COURT: With regards to Tort Claims Act, give me the --
9 just to help me -- give me the number of -- I know -- and it is
10 correct with regards to the failure to enforce any particular
11 law. But what is the number of that? Just help me. What is it?

12 MR. GARFIELD: Yes, ma'am. It's 15-78-60 subsection 4.

13 THE COURT: Yeah. Okay. So it's -- thank you for that.

14 MR. GARFIELD: And they're back-to-back, actually. 4 refers
15 to what Your Honor just stated, and 5 is the judgment and the
16 discretion of the employee. There -- of course, there are
17 several others, but those were the back-to-back ones. And as
18 Your Honor's looking -- and not to, you know, interrupt your
19 thinking process -- subsection 6 -- I said back-to-back there are
20 really three in a row when it refers to the methods that the
21 officers choose to utilize for his protection.

22 THE COURT: Okay. All right. Mr. Moore, tell me based upon
23 the theory of your case --

24 MR. MOORE: Yes, ma'am.

25 THE COURT: -- and based upon the dictates, if you will, of

1 15-78-60, that there is no waiver of sovereign immunity for the
2 enforcement of process or the enforcement -- really for the
3 enforcement of any law. Talk to me about that.

4 MR. MOORE: Let me start by addressing one of the things
5 that Mr. Garfield said about it's unclear as to whether there had
6 been an emergency protective removal. And, apparently, I'm
7 supposed to have testified about the officer and put words in the
8 mouth.

9 THE COURT: I'm not worried about -- I'm not worried about
10 that, Mr. Moore. I gather it is the position of the plaintiff
11 that if she was covered, then it was one of two things. It was
12 either a civil conspiracy to kidnap this child on behalf of this
13 officer, or she was exercising an EPC. Yes?

14 MR. MOORE: Yes, ma'am. It is -- she says she was
15 exercising an EPC. She basically --

16 THE COURT: I got it. I got it. It's one or the other.

17 MR. MOORE: So, basically, at that point in time, this child
18 is no longer in the custody of the mother.

19 THE COURT: I get it. So my question is this. Here's my --
20 I'm going back to 4 because that's -- I mean, that's their best
21 argument. Not 5, not 6, but 4. Talk to me about -- talk to me
22 about 15-78-64. Tell me how does the plaintiff get --

23 MR. MOORE: I don't have that code section in front of me.

24 THE COURT: I know. I didn't either. Let me read it to
25 you. It is really, really short. And all it's saying -- here's

1 what it says -- is that there is no -- under the Tort Claims Act,
2 that there is no waiver of sovereign immunity for the enforcement
3 of any law.

4 MR. MOORE: Right. They weren't enforcing the law. The
5 problem is they weren't enforcing the law. The law basically
6 said that they had a duty as a custodian --

7 THE COURT: Yeah. This goes to -- I'm with you. Listen --

8 MR. MOORE: There's an affirmative duty created on the part
9 of law enforcement to notify the Department of Social Services,
10 and there is --

11 THE COURT: There's a statutory requirement without a doubt.
12 There is a statute -- I agree. And taking the evidence, like,
13 most favorable to your client, this was an EPC. Department of
14 Social Services should have been -- was not notified, should have
15 been a judicial proceeding within 48 hours. All of that should
16 have happened taking the evidence most favorable to your client.
17 The problem that I have, and where I need you to focus, is
18 15-78-60 that says that there can be no liability for the failure
19 of law enforcement, the failure of the State, to enforce any law.

20 MR. MOORE: Okay. Here is where they're simply wrong. That
21 code section was -- that provision in the Tort Claim Act was
22 never intended to create a situation where there is a special
23 duty created by the legislature. This isn't no general laws.
24 Okay. If you haven't enforced the speeding laws -- that you know
25 people are speeding up and down the road -- you can't be sued for

1 enforcing the speeding laws. There is a law basically applicable
2 to the general public. And it's true they should be immune when
3 they don't enforce laws that are the general safety laws or
4 general laws related to the public. I mean -- but what's
5 happened here is the legislature has created a special duty, and
6 they have created the special duty by virtue of a statute, and in
7 that special duty what they say is that "Whoa, when you take it
8 upon yourself to take a child away from her parents and you
9 undertake the custody of that child, we no longer have a law
10 which is applicable to the general public." We have a law which
11 is applicable to a special situation where you now have custodial
12 responsibilities, and those responsibilities include emergency
13 protection of the child.

14 THE COURT: I get all that. I get all that. My concern is
15 this. Even with all of that -- even with all of that, if the
16 sovereign says, "That's right. But if we don't do it, there's
17 nothing you can do about it," because we do not waive sovereign
18 immunity for that, for our mess-up with regards to the law. And
19 I'm going to cut to the chase because that's the crux of the
20 case.

21 MR. MOORE: Well, sure.

22 THE COURT: That's the crux of the case because you've got
23 the burden of proof -- Mr. Garfield, you have the burden of proof
24 of showing discretion, and you got to be -- and you've got to
25 show -- looked at this, looked at that, gave some consideration

1 to it, and this is what she chose. I'm not going to do that as a
2 matter of law. That ain't happening with me. Okay? I think
3 that, just to absolutely cut to the chase, if there -- if
4 15-78-60 does -- 4, applies they (inaudible) bring action. There
5 is no waiver of sovereign immunity. Unless, of course, she is
6 not acting within the course and scope; she's acting outside the
7 course and scope. It doesn't appear to me, based on what you-all
8 have said, that she's acting outside the course and scope. And I
9 don't think anybody's -- I certainly don't think -- Mr. Garfield,
10 you're maintaining that for sure. And maybe the plaintiff is,
11 and that is an issue, was she acting within or outside the course
12 and scope. But the application of 15-78-64 is the crux.

13 MR. MOORE: What they've done is they have -- at the worst,
14 it's a gross negligence.

15 THE COURT: I know. That's why, you know, there is all this
16 policy y'all have been doing. I went looking in 17 and 15-78-60
17 to see whether or not the gross negligence standard applied. I
18 was looking for it. I don't see it. And what case law says is
19 it's got to be contained within the waiver part of the statute --
20 in the waiver section. Let me just give an example. An example
21 is --

22 MR. MOORE: Let me just step to the restroom for one second.

23 THE COURT: Yeah. Absolutely. We'll take a short break.
24 No problem. No problem.

25 Mr. Garfield, do you mind if I hop over and go to the next

1 one?

2 MR. GARFIELD: Yes, that's fine, Judge. Thank you. No
3 problem.

4 THE COURT: Thank you. All right. Let's just -- we'll go
5 to the next one and come back.

6 (WHEREUPON, a recess was taken at 2:04 P.M.)

7 THE COURT: All right. Okay. You okay, Mr. Moore?

8 MR. MOORE: I am. And I think my bathroom break actually
9 gave me the opportunity -- I'll tell you this thing has been -- I
10 thought it might be blowing up. It blows up every once in a
11 while, which is a whole lot of fun but -- so we are not suing
12 them for failure to enforce a statute. That is not why we have
13 sued them. We're not suing them because they should have
14 prosecuted somebody. We're not suing them because they didn't
15 enforce a statute. What we are suing them for is this: We have
16 a code section which sets up various procedural family
17 safeguards, and what the State basically has said is "Look, when
18 we take a child from her momma or from her family, the family --
19 the child and the parents are entitled to a 48-hour hearing
20 before the Court, and the duty of law enforcement is to provide
21 the procedural safeguards that we have set up by a code system."
22 So we're not telling you you got to enforce the law. We're not
23 telling you that you did something wrong by not removing the
24 child. We're not telling you that you did something wrong by
25 removing the child. We're not saying that you violated any

1 statute as far as enforcement is concerned. What we're saying is
2 there is a procedural family safeguard in a system that we are
3 entitled to the protection. This family is entitled to the
4 protection of the Family Court by ensuring that when a child is
5 removed, there is a 48-hour hearing. And when you don't do your
6 job and provide that procedural safeguard to this family, then
7 the family unit is under stress and the family unit is not being
8 properly protected. So the code section in question doesn't
9 apply. The applicability of what we're saying that's happened is
10 that the procedural due process that is ensured to everybody in
11 this situation is guaranteed by the code. And when that due
12 process is not followed, the failure to follow due process is
13 negligence. But we're not saying that you didn't prosecute
14 somebody; you didn't do something. What we're saying is -- is
15 that we simply were denied the due process hearing that we were
16 entitled to within 48 hours in an EPC. So the code section that
17 they're citing there does not apply. We are not suing them for
18 failure to enforce a law.

19 THE COURT: Okay. I got it.

20 MR. MOORE: All right. I'm right about that, I think.

21 MR. GARFIELD: Could I just briefly just clarify a couple of
22 things? I promise this will be brief.

23 THE COURT: Sure..

24 MR. GARFIELD: And just to sort of kind of go back to
25 everything that Your Honor and Mr. Moore were sort of trying to

1 analyze. The first thing is he is -- he's saying that his theory
2 of the case is not about the sheriff's deputy failing to adhere
3 to the statute. I'm reading verbatim from his motion for summary
4 judgment that does expound on his amended complaint. He says,
5 "As DSS was never notified, there is a clear violation of South
6 Carolina Code Section 63-7-620(b)(2)." If I continue reading,
7 "In short, the sheriff's department violated South Carolina law,
8 which as a matter of law is actionable and equates to gross
9 neglect. The procedure was not followed and was ignored by the
10 sheriff's department." So two points on that. Number one, the
11 last thing he just stated with all due respect is incorrect or
12 it's inconsistent with what he's alleging here. But, number two,
13 Your Honor inquired or he stated about gross negligence, and he
14 is saying that all this amounts to sort of gross negligence.
15 Whether it's negligence, which we would contend that he's
16 conflating the evaluation of the existence of a duty with the
17 application of these immunity provisions. These are two totally
18 different, you know, analyses, as Your Honor knows. And you've
19 stated that our best argument is subsection 4. We'll stay
20 with -- and I'll stay with number 4 for the moment. The
21 operative answer in this complaint that we filed -- and I think
22 it was in July of 2021. There was an amended complaint. I think
23 this is titled Second Amended Answer to the Amended Complaint --
24 but, anyway, that's our answer. In there we did not raise an
25 immunity containing a gross negligence exception such as a

1 subsection 12, a subsection 25. So gross negligence wouldn't
2 apply. So if this whole theory is we didn't do what we were
3 supposed to do under the law, that amounts to gross negligence or
4 gross neglect, that takes care of those issues. And I just
5 wanted to clarify that. Thank you.

6 THE COURT: Yep. Got it. All right.

7 Gentlemen, proposed orders in 30, please. Obviously, if you
8 guys need longer, particularly you, Mr. Moore just -- you guys
9 just agree and let me know when I can expect to receive your
10 proposed orders. All right. Happy weekend, everybody.

11 And, Mr. Moore, you take care.

12 MR. MOORE: Yes, ma'am. Thank you so much.

13 THE COURT: Absolutely. Y'all take care.

14 MR. GARFIELD: Thank you, Your Honor.

15 Take care, Mr. Moore.

16 MR. MOORE: Okay. Bye bye.

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CERTIFICATE OF REPORTER

I, Amy Pennica, Certified Verbatim Reporter in and for the State of South Carolina at Large, hereby certify that the foregoing is a true, accurate, and complete Transcript of Record to the best of my abilities to be heard and transcribed of the proceedings had and evidence introduced in the hearing of the captioned case, in The Court of Common Pleas, on the 21st day of June, 2024.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties connected to the action, nor am I financially interested in the action.

31st day of December, 2024

Amy Pennica

Court Reporter

12/8/2021

CASE ELIZABETH SIGNORINO

<p style="text-align: right;">Page 1</p> <p>1 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS 2 COUNTY OF RICHLAND) C/A NO.: 2021-CP-40-01484 3 Lisa Wallas,) 4 Plaintiff,) 5 v.) 6 Richland County Sheriff's) 7 Department, South Carolina) 8 Department of Social) 9 Services, Richland County) 10 Department of Social) 11 Services and Casey Elizabeth) 12 Signorino,) 13 Defendants.) 14 _____) 15 Lisa Wallas, as Natural) C/A No.: 16 Guardian of, W) 2021-CP-40-01971 17 Minor Child,) 18 Plaintiff,) 19 v.) 20 Richland County Sheriff's) 21 Department, South Carolina) 22 Department of Social) 23 Services, Richland County) 24 Department of Social) 25 Services and Casey Elizabeth) Signorino,) Defendants.)</p> <p style="text-align: center;">DEPOSITION OF CASE ELIZABETH SIGNORINO ***** Wednesday, December 8, 2021 10:15 a.m. - 11:44 a.m.</p>	<p style="text-align: right;">Page 3</p> <p style="text-align: center;">APPEARANCES</p> <p>1 2 3 S. Jahue Moore, Esquire MOORE TAYLOR LAW FIRM 4 1700 Sunset Boulevard West Columbia, South Carolina 29169 5 diane@mttlawfirm.com Attorney for the Plaintiff 6 7 Robert D. Garfield, Esquire CROWE LAFAVE, LLC 8 2019 Park Street Columbia, South Carolina 29201 9 Shelley@crowelafave.com Attorney for the Defendants 10 Richland County Sheriff's Department and Casey Elizabeth Signorino 11 12 Tierney F. Goodwyn, Esquire BOYKIN & DAVIS, LLC 13 220 Stoneridge Drive, Suite 100 Columbia, South Carolina 29210 14 tdukes@boykinlawsc.com Attorney for the Defendant 15 Department of Social Services 16 17 Joanna A. McDuffie, Esquire Richland County Sheriff's Department 18 5623 Two Notch Road Columbia, South Carolina 29223 19 Attorney for the Defendant Richland County Sheriff's Department 20 21 22 23 24 25</p>
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<p style="text-align: right;">Page 2</p> <p>1 The deposition of CASEY ELIZABETH SIGNORINO was taken 2 before Mary H. Occhipinti, a notary public in and for the 3 State of South Carolina, commencing on Wednesday, December 4 8, 2021, at the offices of CROWE LAFAVE, LLC, 2019 Park 5 Street, Columbia, South Carolina, pursuant to Notice of 6 Deposition and/or agreement of counsel. 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p style="text-align: center;">INDEX</p> <p>1 2 3 Stipulations. 06 4 Examination by Mr. Moore. 06 5 Examination by Ms. Goodwyn. 72 6 Examination by Mr. Garfield 73 7 Certificate 76 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
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12/8/2021

CASE ELIZABETH SIGNORINO

Page 5

1 EXHIBITS
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 3 No Exhibits were marked during this deposition.
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1 Q. A series of questions to get background
 2 information. It's obvious you don't know what
 3 a deposition is.
 4 A. Okay.
 5 Q. A deposition is an examination under oath
 6 where my job is to ask you questions I choose
 7 to ask you and your job is to simply answer
 8 the questions that I ask you.
 9 A. Okay.
 10 Q. Do you now think you understand that?
 11 A. Yes.
 12 Q. You have a right to fully explain any answer
 13 you give so long as the explanation is
 14 responsive to my question, but I ask that you
 15 obey the rules and not tell me about things I
 16 don't ask you about, okay?
 17 A. Okay.
 18 Q. If I don't ask you about it, assume I don't
 19 want to know it, okay?
 20 A. Okay.
 21 Q. I will try to ask you simple and direct
 22 questions. If I do that, can you try to give
 23 me simple and direct answers?
 24 A. Yes.
 25 Q. Now, we have been so bad to each other in

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1 STIPULATIONS
 2 It is stipulated by and between counsel
 3 for the respective parties that all objections
 4 are reserved until the time of trial, except as
 5 to the form of the questions.
 6 This deposition is being taken pursuant
 7 to the South Carolina Rules of Civil Procedure.
 8 - - - -
 9 The reading and signing of this
 10 deposition is hereby not waived.
 11 Whereupon,
 12 CASEY ELIZABETH SIGNORINO, being duly sworn and
 13 cautioned to speak the truth, the whole truth,
 14 and nothing but the truth, testified as follows:
 15 EXAMINATION
 16 BY MR. MOORE:
 17 Q. What is your name?
 18 A. Casey Signorino.
 19 Q. And Ms. Signorino, my name is Jake Moore and I
 20 am about to take your deposition. Do you know
 21 what a deposition is?
 22 A. Yes, sir.
 23 Q. What is it?
 24 A. A series of questions to get some background
 25 information on your case.

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1 depositions over the years as lawyers, the
 2 Supreme Court has said we have rules and I've
 3 got to tell you what they are. I wouldn't do
 4 this except for the fact that they tell me I
 5 have to, so here we go. If you have a
 6 question about a question, ask me and not your
 7 lawyer, do you understand?
 8 A. Yes.
 9 Q. You are under oath and this is testimony, it's
 10 not just a discussion. You are not supposed
 11 to discuss your testimony with anybody but me
 12 until the deposition is over, all right?
 13 A. All right.
 14 Q. If your lawyer makes an objection -- do you
 15 have a lawyer here today?
 16 A. Yes.
 17 Q. Who is your lawyer?
 18 MR. GARFIELD: I'm her lawyer.
 19 MR. MOORE: Please don't coach, I'm asking her.
 20 A. Robert Garfield.
 21 Q. And he is representing you, correct?
 22 A. Correct.
 23 Q. Now, if Mr. Garfield objects, ignore his
 24 objection and answer anyway unless he tells
 25 you not to answer. If he tells you not to

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CASE ELIZABETH SIGNORINO

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1 answer, don't answer, okay?
 2 A. Okay.
 3 Q. Otherwise answer. If we take a break, and I
 4 don't anticipate this being very long, but if
 5 we take a break, don't discuss your testimony
 6 with Mr. Garfield or anyone else, okay?
 7 A. Okay.
 8 Q. Now I've done my job doing I think what the
 9 Supreme Court says I have to do. Let's talk
 10 about you. What is your educational
 11 background?
 12 A. I graduated high school early. I got an
 13 associates degree in criminology, criminal
 14 justice at Midlands Tech. I went on to get my
 15 bachelors degree in criminology and criminal
 16 justice at USC, Columbia.
 17 Q. So you have a bachelors level degree in
 18 criminology?
 19 A. In criminal justice. Yes, sir.
 20 Q. What's the difference between criminology and
 21 criminal justice?
 22 A. Criminal justice is studying the justice
 23 system and criminology is studying more of the
 24 science behind it.
 25 Q. And you are a certified law enforcement

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1 officer?
 2 A. Correct.
 3 Q. And have you been through the educational
 4 facilities at the South Carolina Criminal
 5 Justice Academy?
 6 A. Yes.
 7 Q. At the time you were involved in the situation
 8 with P W , were you a certified law
 9 enforcement officer?
 10 A. Yes.
 11 Q. And you had been trained in such?
 12 A. Yes.
 13 Q. In regard to your training, have you ever been
 14 trained that you have the authority to remove
 15 children from the custody of their parents?
 16 A. Yes.
 17 Q. You do?
 18 A. In certain situations, yes.
 19 Q. Well, in what situations do you have the
 20 authority to remove a child from custody?
 21 A. EPC.
 22 Q. What is EPC?
 23 A. Emergency Protective Custody.
 24 Q. Well, when you make the decision to remove the
 25 child based upon Emergency Protective Custody,

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1 do you have the authority to place a child?
 2 A. Yes.
 3 Q. Do --
 4 A. I have the authority to place a child where I
 5 feel is best and safest for a child.
 6 Q. What do you understand gives you that
 7 authority?
 8 A. The law.
 9 Q. What law?
 10 A. Emergency Protective Custody law.
 11 Q. Ma'am, as I understand it, and correct me if
 12 I'm wrong, if you find a child in need of
 13 Emergency Protective Custody, your job is to
 14 basically contact the Department of Social
 15 Services and DSS is responsible for placing
 16 the child from that point. That's correct,
 17 isn't it?
 18 MR. GARFIELD: To the extent it's a question, I
 19 guess there was a question, object to the form
 20 of it. You can answer.
 21 A. So not entirely. It's the job of the Richland
 22 County Sheriff's Department to report to DSS.
 23 My job is a portion of the Richland County
 24 Sheriff's Department's job. My job is to
 25 investigate, determine whether or not the

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1 child is safe. If the child is not safe,
 2 remove the child and place her where I feel is
 3 best fit for her.
 4 Q. Do you -- where did you get that
 5 understanding?
 6 A. Through four-and-a-half years of law
 7 enforcement training.
 8 Q. Training by whom?
 9 A. Throughout my experience with both of my
 10 agencies I worked for. I was a state agent
 11 for three years as well.
 12 Q. So if you decide that a child is not safe, you
 13 can basically put the child wherever you want
 14 to that you think is safe?
 15 MR. GARFIELD: Object to the form.
 16 Q. Is that correct?
 17 A. Not entirely. I can place with DSS.
 18 Q. Right.
 19 A. Or I can discuss with the family any other
 20 alternatives that is in full agreement in
 21 order to avoid foster care for the night.
 22 Q. Well, wait a minute. For the night? I want
 23 to make sure I understand. You say that one
 24 of your options if you find the child in need
 25 of protective custody --