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SC Court of Appeals

The State of South Carolina
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

Hon. Michael G. Nettles, 12th Circuit Court Judge

Case No. 2021-CP-21-02121

(Appellate Case No. 2024-001454)

Hannah L. Secka, Individually and (M.Y.N.S.)
Appellants-Plaintiffs

vs.

Florence School District One (FSD1) *and*
Florence County Sheriff Department (FCSD)
Appellee-Defendants

APPELLANT INITIAL REPLY BRIEF

Hannah L. Secka (*Pro se litigant*)
(Moudou-Yasen Nasir Secka) Age 21
(*Pro se disabled litigant*)
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2. Did the Circuit Court err by using false information of material facts provided by Defense Counsel David N. Lyon, Esq. of Duff, Freeman, and Lyon Law Firm in its' 2/12/2024 Memorandum in Support of Summary Judgment, by intentionally placing a distorted misinterpretation of (M.Y.N.S.) testimony on his 11/16/2022 deposition that damaged the case? (*Rule 3.3*)

3. Did the Circuit Court err that Plaintiffs have failed, as matter of law, to establish a compensable "loss" under the Tort Claims Act regarding the actions of District employees?

4. Did the Circuit Court err that Plaintiffs have failed to establish a genuine issue of material fact tending to show that the district failure to follow its policies that led to the locker room incident; labeling an "assault & battery" as a 'tussle?" (*Section 63-7-310 Child Protection)*

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TABLE OF AUTHORITIES

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STATEMENT OF THE CASE

This appeal arises from a civil action filed by Attorney Darryl C. Caldwell, Esq. of (Caldwell Law Firm LLC) on 9/29/2021 Case No. 2021-CP-21-02121 for Hannah L. Secka, *individually* and on behalf of her minor, "*disabled*" son (M.Y.N.S.), against Florence School District One (District or FSD1) and the Florence County Sheriff Department (FCSD), asserting causes of action for gross negligence, carelessness, recklessness and breach of fiduciary duty. The causes of action are based on a wide range of misconduct including teacher abuse, neglect, assault & battery 3rd degree, hazing (sexual battery), bullying, harassment, retaliation, religious discrimination, SRO sheriff deputy attack, and violations of IDEA and Section 504 federal disability law. (Exhibit: OCR Complaints)

Namely, Appellants asserts that (M.Y.N.S.), is an Autistic student, who was subjected to physical & emotional abuse and a victim of several violent school crimes by district staff and students that were intentionally concealed by the District (FDS1). The evidence shows that the District failed to act and investigate on parent reports of administrative and teacher abuse & neglect; religious discrimination, administrative concealment of the school crimes committed against (M.Y.N.S.), teacher and peer bullying, harassment, football locker room hazing (sexual battery), and ongoing violent physical assaults. The District (FSD1) owed Hannah Secka and

(M.Y.N.S.) a duty of care, as direct and proximate gross negligence they breached that duty, causing physical & emotional injuries and damage.

Under the SC Tort Claims Act the district is liable for the "gross negligence" of the hiring, retention, and supervision of Richard O'Malley, Brian Denny, Matthew Dowdell, Christopher Coleman, Jeff Lee, Kathy Luhrs, and Lisa Doyle when they failed to exercise the slightest care to keep (M.Y.N.S.) safe from physical and emotional abuse while at school. They were all willful participants in their illegal conduct to harm both Hannah Secka and her son. As a result, Richard O'Malley, (FSD1 Superintendent) signed two (2) Office of Civil Rights (OCR) Resolution Agreements in 2019 and 2021 for the Districts' (FSD1) entire staff to receive training in the Section 504 Rehabilitation Disability Act of 1973, appoint a designated Section 504 Coordinator to assist parent with hearings, and to revise their Section 504 policies and procedures (Exhibit). There are four (4) pending investigations against FSD1 for denial of free and appropriate education, retaliation and discrimination (Exhibit).

Point and case, Meredith Seibert, (FSD1) District Counsel speaks in *err* regarding (M.Y.N.S.) diagnosis of PTSD. The child was diagnosed with Post Traumatic Stress Disorder (PTSD) on July 7, 2021, by Dr. Leah Pritchard-Boone, Licensed Clinical Psychologist due to school-based trauma and abuse in FSD1 (Exhibit). Evidence that Attorney Caldwell was given and he intentionally withheld

due to his flagrant "*conflict of interest*" with his personal and professional relationship with David T. Duff and David N. Lyon, (Duff-Freeman-Lyon) Defense Counsel for FSD1 in this matter. David T. Duff was Caldwell's boss for 16 years at (Duff, White, & Turner, LLC). Caldwell became compromised and through his negligent errors and lawyer misconduct of *ex-parte* communications against his clients' objections his actions were plain and obvious that hurt the case that was initially DENIED summary judgment on 2/27/2024 (Exhibit) by Judge Michael Nettles; then he unilaterally REVERSED his Order on 3/5/2024 and GRANTED summary judgment to the District (FSD1) due to Attorney Caldwell's' 9/29/2021 complaint "*allegedly*" failed to state a claim.

Then, the District (FSD1) engaged in a civil conspiracy to conceal the crimes committed against (M.Y.N.S.) to specifically protect the white quarterback who went on to the Citadel on a football scholarship from WFHS (*Cooper Wallace*), another relevant argument Caldwell failed to disclose and investigate when he was given the identity and pictures of the players in their West Florence High School uniform for prosecution. Once the District (FSD1) was served with the personal injury lawsuit the Board of Trustees and the Superintendent Richard O'Malley retaliated against Hannah Secka when they had an Executive Session on 11/11/2021 and out of pure *racial animus* the Board voted (6 white to 3 black) for District Counsel Susan Fittipaldi, Esq. (Halligan, Mahoney, & Williams) to sue Hannah Secka on

11/16/2021 Case No. 4:21-cv-03746 for "*attorney fees*" of a due process hearing that never occurred in July 19-22, 2021 (Exhibit). The IDEA complaint was timely withdrawn on 8/3/2021. Susan Fittipaldi, Vernie Williams and Kimberley Blackburn used their position to *harass and intimidate* Hannah Secka due to her advocacy for her son and other special needs parents in the community, and they committed *fraud and perjury* by submitting *false declaration statement* of billable hours for a non-evidentiary due process hearing that was timely withdrawn due to Richard O'Malley, FSD1 Superintendent inappropriate financial relationships and paying bribes to the IDEA hearing officers Doug Dent $63,707.57 (Exhibit) and Brian P. Murphy $300,000 (Exhibit) to slander and defame the mother, Hannah Secka (Exhibit). They too have ODC Complaints for unethical lawyer misconduct for perjury and fraud (Exhibit). Under no circumstances should the Superintendent or his lawyers be paying a hearing officer any federal funds while the decision was on appeal. That is the legal obligation and duty of the District LEA, Brian Denny. During Mediation on 1/31/2023 in *FSD1 v. Secka* Case No. 4:21-cv-03746-JD Hannah Secka was blindsided by Attorney Caldwell for not filing the Motion to Dismiss and enter a Counterclaim for $50,000 for Harassment and Retaliation against FSD1 as he agreed to do with his client in this frivolous lawsuit (Exhibit). Instead, Attorney Caldwell coerced Hannah Secka into a Settlement Agreement despite providing evidence to the Mediator Regina Hollins-Lewis, Esq. that exonerated Hannah Secka and

showing the dishonesty of Vernie Williams and Kimberley Blackburn by telling her, "*No Judge is going to believe you! We need to get this off the table to get to the big money, Yasen's case, which has a potential payout of $900,000 for the 3 incidents*."

On 2/3/2023 Hannah Secka terminated Darryl Caldwell for *failure to follow clients*' *instructions* and on 2/10/2023 she filed the Motion to Dismiss and enter Counterclaim for $50,000 for Harassment and Retaliation pro se with District Court (Exhibit). Nevertheless, due to Attorney Caldwell's intentional negligence, misrepresentation of the facts, deceit, and dishonesty by failing to keep his client informed of the District Courts' ruling and decisions. Attorney Caldwell caused his client to have an adverse financial judgment of $9000 due to his failure to timely file a Motion to be Relieved as Counsel when he was fired, that ultimately lead to Hannah Secka losing her Pro se 4th Circuit appeal rights (Exhibit).

Attorney Caldwell committed lawyer misconduct by failing to file the complaint as *agreed upon with his client* Hannah Secka in writing with the applicable causes of action and evidence to prove gross negligence, carelessness, recklessness, failure to report school crimes (hazing/sexual battery), breach of duty, and assault & battery 3rd degree given to him on 12/12/2019 (Exhibit). Caldwell is guilty of incompetence by not incorporating the specific violations of the district, state, and federal policies, procedures, and South Carolina Code of Laws that his clients were victims of in his 9/29/2021 complaint that were in the original draft complaint. This

error was plain and obvious. For his *intentional negligence* of failing to follow client's instructions Hannah Secka terminated Caldwell and filed an Office of Disciplinary Counsel (ODC) Complaint with the Commission of Lawyer Conduct Panel against Darryl C. Caldwell, David N. Lyon, David T. Duff, Susan Fittipaldi, Vernie Williams, and Kimberley Blackburn for their intentional unethical lawyer misconduct.

On May 18, 2023, the *Proposed Consent Scheduling Order* stated: The parties should complete discovery by August 21, 2023. The parties shall engage in mediation before September 29, 2023. The parties shall file and serve all dispositive motions on or before October 31, 2023. This case will not be called for trial until at least thirty (30) days after the court decides all dispositive motions, and not prior to January 31, 2024. Signed by Honorable Michael G. Nettles #2140 (Exhibit).

If discovery was closed by August 21, 2023, how did Richard O'Malley complete his oral examination (deposition) on 9/6/2023; how did Daisy Johnson (student one-to-one paraprofessional) complete her deposition on 10/17/2023; how did the Expert: Dr. Sterling Harris complete his deposition on 12/12/2023? Most importantly, David N. Lyon filed a Memorandum in its Support of Summary Judgment on 2/12/2024, Darryl Caldwell filed a Memorandum of Law in Opposition of Summary Judgment on 2/20/2024 (which is not signed or dated), and Judge Michael Nettled issued an Order **DENYING** Defendant Motion for Summary

Judgment on 2/27/2024 , after the Sheriff Department settled with the Plaintiffs in Mediation on 10/26/2023 (Exhibit).

Judge Nettles ORDER states: *The District claims the Court should grant summary judgment pursuant to the South Carolina Tort Claims Act. In such cases the burden of establishing a limitation upon liability or an exception to the waiver of immunity upon the governmental entity asserting it as an affirmative duty. It is well established that summary judgment is appropriate only when it is perfectly clear that no genuine issue of material fact exists and further inquiry into the facts is not desirable to clarify the application of the law. Even when there is no dispute as to the evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should not be granted. Rice v. School Dist. Of Fairfield, 317 S.C. 77, 91, 452 S.E.3d 352, 354 (Ct App. 1994). Summary Judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of law. Gadson v. Hembree, 364 S.C. 316, 613 S.E.2d 533 (2005). Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. Nelson v. Charleston County Parks & Recreation Comm, 362 S.C. 1, 605 S.E.2d. 744 (Ct. App. 2004). Because summary judgment is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues. Helena Chem. Co. v. Allianz Underwriters Ins. Co., 367*

S.C. 631, 594 S.E.2d 455 (2004); Hawkins v. City of Greenville, 358 S.C. 280, 594 S.E.2d. 557 (ct. App. 2004). Plaintiff has alleged facts sufficient to establish genuine issues of material facts sufficient to survive Defendant's Motion for Summary Judgment. In the instant case, Plaintiff's claims were filed timely. Plaintiff have shown that a genuine issue of material facts exists as to whether Jeff Lee, varsity football coach, and Matthew Dowdell, WFHS Principal conduct was "extremely reckless." *In addition, the Plaintiff's designated expert Dr. Sterling Harris, Ph. D. provided testimony for the Plaintiffs. Specifically, he testified that there is no manner, no instance, or any time where a teacher should write on a student for any reason. Further, Dr. Harris testified that within any type of locker room for any activities there should be adult supervision. Since there was no adult in the locker room when the incident occurred the principal (Matthew Dowdell) should have questioned the athletic director (Greg Johnson) or coach (Jeff Lee). In addition, the District failed to provide follow-up information about what occurred in the locker room, whether taking statements from different students on the team, or different players, to get an understanding or just what happened when there's an allegation like this is made. Therefore, Plaintiffs have shown that that a genuine issue of material fact exists as to whether the District through its employee conduct was "grossly negligent" which is a question for the jury." Plaintiffs' claims are not towards individual employees named in the complaint, but rather for the District. The expert, Dr. Sterling testifies*

that Kathy Luhrs' conduct fell outside the scope of what a reasonable educator would have done, and it was reasonable for the parent to pursue legal action as a result of such conduct. Dr. Harris's testimony establishes that the ***Plaintiffs have met their burden of proof to defeat a Defendant's Motion for Summary Judgment*** *in this regard. Dr. Harris was shown a picture of the student's arm and stated the there is no manner, no instance, or at any time where a teacher should write on a student for any reason. Based on this, whether the conduct of the teacher was gross negligent is an issue of material fact that should be decided by a jury. Dr. Harris testified that (MYNS) has provided testimony to show that care was not taken, and as a result of this failure by the District employees collectively, (MYNS) has suffered actual and emotional damages. Dr. Harris testified regarding the District's employee's failure to protect (MYNS) during the deposition. Dr. Harris asserted that the District failed to protect (MYNS) during extracurricular activities while he was in the football locker room. Specifically, Dr. Harris testified that taking into account what occurred, (MYNS) behavioral disabilities that required a shadow (one-to-one aide), it is his opinion as a principal that there has already been some predetermined fears or predetermined ideas that the student could react emotionally as having bad reactions with other students and teachers. Dr. Harris' opinion as a principal that he wouldn't want an employee to be put in a position where setting off those triggers without full knowledge of the student's disability. Judge Nettles states****: Plaintiff's claim is not***

BARRED by the SC Tort Claims Act Statute of Limitations *because Plaintiff (MYNS) did not reach the age of majority until January 7, 2022. Further, the incident with SRO Green, it was Matthew Dowdell, WFHS Principal who delivered (MYNS) to SRO Green for interrogation. Mr. Dowdell did not lead the questioning or intercede on (MYNS) behalf until the SRO became belligerent. Dr. Harris's testimony states that (MYNS) should have been questioned by an administrator and with his parent or guardian present and not SRO Green. Therefore, Plaintiffs have shown that a genuine issue of material fact exists as to whether the District, through its employees conduct was "gross negligence." Whether the employees were grossly negligence is a question for the jury. The Defendant (FSD1) is correct in its application of the statute of limitations for claims brought pursuant to the SC Tort Claims Act, but their memorandum failed to acknowledge the exception to §15-78-110 for infant plaintiffs. "If a person entitled to bring an action under Chapter 79 of this title, is at the time of the cause of action accured within the age of eighteen years, the time of disability is not a part of the time limited for the commencement of the action, except that the period within which the action must be brought cannot be extended: (a) more than five years by any such disability, except infancy; not (b) in any case longer than one year after the disability ceases." S.C. Code Ann §15-3-40. The District has erroneously asserted that Plaintiff's claims for specific conduct that occurred before the complaint was filed on September 26, 2021, are time-barred*

by §15-78-110. (MYSN) did not reach age of majority until January 7, 2022, and the specific acts giving to this action occurred before that date. Therefore, MYNS) had until January 7, 2023, to bring this claim despite failing to file a verified claim. Plaintiffs (MYNS) claims were filed in a timely manner. Plaintiff Secka (Hannah) claims were timely filed because the statute of limitation starts to run when Plaintiff knows or should have known how the injuries occurred. Plaintiff Secka requested an investigation and a meeting regarding the incident in the locker room, but to no avail. She was not aware of what occurred in the locker room until October 2019, which makes the complaint timely filed. Plaintiff Secka has presented evidence that she incurred medical expenses related to the incidents alleged in the Complaint. Therefore, Plaintiff Secka claims to survive Defendant's Motion for Summary Judgment on statute of limitation violation and is a question for the jury. Plaintiffs have pled facts sufficient to establish damages for emotional distress because a reasonable jury could find the conduct of the District employees to be "extremely reckless." Plaintiffs have alleged facts sufficient to prove gross negligence, and District's failure to act, not to students' intentional conduct, therefore immunity would not be proper. Judge Nettles ORDER states: This argument fails because Plaintiffs are not asserting that they are entitled to relief based on acts of the student but rather the District's employees failure to act when given notice of potential danger, and their reckless choice to not supervise (MYNS) properly. The District IS

NOT immune from the claim of negligent supervision. Therefore, Plaintiffs have shown that a genuine issue of material facts exists as to whether the District through its employees, conduct was "grossly negligent" or "extremely reckless" which is a question for the jury." Defendant's Motion for Summary Judgment is DENIED! Hon. Judge Michael G. Nettles. Which has been illegally taken off the Public Index. Article VI of the United States Constitution forms the "*supreme law of the land*." It specifically says that judges in every state have to obey the Constitution, even if it contradicts with state law. The United States Constitution Article 1, Section 9, states that the government cannot deny a citizen the right to trial by jury.

Now, in the State of South Carolina, appealing issues that were not preserved (objected to at trial) are challenging and typically only reviewed under the "*plain error*" or "*manifest injustice*" doctrines, which are applied sparingly to address serious errors that fundamentally impact fairness or due process. The appellate court should review the issues described in this brief in the interest of justice and to avoid a manifest injustice or miscarriage of justice. The Appellate Division, has broad "jurisdiction to address unpreserved issues in the interest of justice." *Merrill by Merrill v. Albany Med. Cntr. Hosp*., 71 N.Y.2d 990, 991 (1988). Hannah Secka placed a formal verbal OBJECTION on record in open court on 8/21/2024 at 12th Circuit Court Summary Judgment Hearing with Judge Michael Nettles (Exhibit).

This case is a gross miscarriage of justice, where a disabled child was tortured while in the Districts' care, they concealed the crimes and the Plaintiffs' attorney Darryl C. Caldwell failed his *fiduciary duty* to protect and defend his clients with due diligence. This error is plain and obvious. There was no trial by jury for this case, which Plaintiffs demand under statutory constitutional right to due process.

In South Carolina, a negligence tort requires proving four elements: duty, breach, causation, and damages. Additionally, the South Carolina Tort Claims Act provides limited immunity to government entities and employees from certain tort actions. The South Carolina Tort Claims Act (SCTCA) generally limits governmental liability for negligence. However, the Act does not protect governmental entities from claims based on *gross negligence*, which is defined as a failure to exercise even slight care. While punitive damages are generally prohibited under the SCTCA, some proposed amendments seek to create an exception for gross negligence. When it comes to *Gross Negligence*: The SCTCA does not protect governmental entities from liability for gross negligence. This is a higher degree of negligence than simple negligence, often described as a failure to exercise even slight care.

FACTS

As a licensed lawyer, Attorney Caldwell owed Hannah Secka and (M.Y.N.S.) a *fiduciary duty* in all cases he has represented. In all professional functions and responsibilities as a lawyer he should be competent, prompt and diligent in his position. A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold the legal process.

When it comes to Kathy Luhrs:

Attorney David N. Lyon intentionally violated Rule 3.3 (candor with the tribunal) when he was dishonest and provided a false misleading distorted misinterpretation of (M.Y.N.S.) testimony in his 11/16/2022 deposition that damaged the case from his 2/12/2024 Motion for Summary Judgment for Case No. 2021-CP-21-02121 to Circuit Court Judge Michael G. Nettles. This is a case of an African American special education student who was hazed, assaulted, harassed, intimidated, bullied, and attacked by law enforcement while in the schools' care and

they suppressed evidenced and concealed crimes committed against the student. The victim (M.Y.N.S.) gave a sworn deposition on 11/16/2022.

On page 12 Attorney Lyon's cut and paste a false narrative of (M.Y.N.S.) testimony of allegations against his teacher Kathy Luhrs intentionally writing on his arm (body) with a permanent marker misspelling the word "Loyalty" to "*Loyality*." Lyons' stated (M.Y.N.S.) testified" "*I can't remember what happened*." That's false. The testimony is as follows:

Evidence: (FCSO Incident Report# 2019-06-0227)

Evidence: (M.Y.N.S.) Deposition Testimony (Kathy Luhrs) Page 77-85
By DAVID N. LYON, ESQ.:

Q All right. Mr. Secka, tell me about the -- the situation involving Ms. Luhrs, who you say -- or the complaint says used a marker to write something on your arm. You agree it said, loyalty.

A Right.

Q How did that even make you feel and do you that -- that what was written on your arm-looks with that really lovely cursive writing, writing on your arm. So tell me what happened before and after that. How did that come to pass?

A This was -- I believe, the last week of school. And before this situation even happened, me and Ms. Luhrs' relationship was already like, on the rocks. Because -- we – we also had like, different types of altercations and situations that were way bigger than this incident. But this specific one she -- yeah. This was the last week of school. I believe, we were watching a movie. Yeah. Was watching a movie and we all was just talking like, we was all chilling in Ms. Luhrs' class. And then I can't remember what happened. I just remember we all ended up like, piling up by her desk and she had a Sharpie. And I told her -- I told her like, in a -- in a kind of nonchalant type of way that I -- I told her -- basically, we was talking about -- everybody in the classroom was talking about tattoos. And she began to say something about she wanted a tattoo or something like that. And she

asked me if I ever thought about getting one because me and the other students were all talking about it. And I told her that I was Muslim and that I didn't really like, plan on getting any type of tattoos. And she began to just start doodling on pieces of paper. And I'm trying to remember exactly how she ended up writing on my arm. But I just remember I did not really appreciate it, but -- I'm trying --I'm trying to reach far back right now. Trying to go down memory lane.

Q Take your time.

A But I -- I do remember -- I do remember the -- the other students laughing because she spelled it wrong, though. And I felt very humiliated because it -- because it just -- it didn't really sit right with me because I just-- it just didn't really, really sit right with me to be honest. But as far as like, her writing on my arm, I'm not going to say I let her do it, but I'm not going to sit here and say like, she did it just like randomly because -- I got thrown off just now. Yeah. Yeah.

Basically, long story short, we was watching a movie in class and we was all -- we was all just chilling, talking about tattoos. And then she ended up doodling on a piece paper. And then she began to just start writing on my arm. And she drew -- she drew something else on somebody else's arm, but it was kind of small on theirs. It was like a little butterfly or something. And then, she -- she drew -- she drew a rose on the girl's hand. Then after that, she drew -- she -- she wrote on my arms and she wrote-- she wrote loyalty on my left forearm. Well, loyality, but it wasn't even spelled right. I didn't really too much appreciate that. I didn't really -- I didn't really try to conversate with her after that. I just tried to wash it off.

Q Are you -- are you upset that she wrote on your arm or that she spelled it wrong and then that made everybody laugh.

A In a sense, kind of both because I didn't really appreciate it because it felt like-- it felt like -- a kind of like, retaliation mixed with humi--- humiliation. Is that how you say it?

Q Humiliation. Yes.

A Yeah. Yeah. It just sounded like a mix of that. Because me and her already had very rocky relationship. Like, before this with, like, different other incidents where she's – I believe, she -- yeah, I'm pretty sure she pressed charges against me. And I -- I believe she -- no, I don't believe. She did run off with my phone and tried to -- tried to -- I don't know what she tried to do with my phone. But she – she promised me she was going to give me my phone at one point at the end of the class when she snatched it off of the desk. And instead of her giving me back my phone when the bell rang, she decided to take it out of the cabinet and go and walk off towards the -- the principal's office. And as I was behind her, I was asking her and I was like, hey, what are you doing with my phone. Because mind you, she promised me she was going to give me my phone at the end of the class period. But she also did snatch it from -- like, without my consent. So that's why I said me and her relationship already was like, rocky. And when I -- when I did try to get my phone back from her, like, when I tried to reach, she made a scene and made it seem like I basically tried to hit her. And she -- she tried to call the S.R.O. and make a big 'ole scene and make it seem like I tried to harm her. When in reality, I was just trying to get my belongings back. You know what I'm saying?

Q So you grabbed your -- you grabbed for your phone is what you're saying?

A Right. Right. Right. But she made-- she made it seem like something that was – she blew it out of proportion, basically.

Q All right. Were you -- do you also recall looking at an incident in your behavior --in your student discipline summary and the interaction with Luhrs that I'm looking at, said that -- that you cursed at her, saying, that's F'd up. I can show you if you want, but does that -- do you recall any cursing at your -- I guess, your eight grade teacher at that point?

A I don't recall any cursing --

Q All right.

A -- but I'm going to be honest. If I did, it was probably because I was mad because she took my phone.

Q Okay. All right. And what -- what's your -- what the understanding -- your understanding of when you can have your phone at school?

Q Yes. That's a good way to say it.

A Well, whenever we're not doing work

A You said what's my understanding when I can and can't have my phone? My seat is by her table. That's what she did. She moved my seat by her table, so it was kind of easy for her to just reach over and just grab it anything in class like, whenever we're not doing actual classwork or tests or projects, et cetera, et cetera. You see my phone -- my phone wasn't bothering her or anybody like, it was on the corner of my desk and I was literally doing my -- my work. And she -- what she did was she moved my phone without me actually knowing like, paying attention for her, since I'm doing my work.

Q So if she says you were playing with it, that's not --

A No.

Q -- not your recollection?

A No, I wasn't playing with my phone at all.

Q Why did she move your seat over by her desk?

A I guess, so she could keep a good eye on me.

A To be honest, I don't know. Like, I really don't know because I really don't remember hearing no type of conversation that like, was coerced.

Q Was there a reason she needed to keep a better eye on you?

A I believe, she didn't really -- I believe, she didn't really like me, to be honest.

Q Okay.

A That's just how I felt.

Q Go -- going back to the writing on your arm. How many other students did she write on their arms?

A It was just me and one other student.

Q Okay. Did the other student ask for the -- for her to write on her arm?

A her to do something like that. As far as like --yeah, I don't remember like, no type of conversation that like, led up to that, basically.

Q Okay. So you don't -- you don't remember why she chose the word loyalty to try and spell?

A No.No.

Q Was there a movie on about loyalty or--

A No.

Q -- y'all talking about loyalty?

A No.

Q You didn't have any discussions with her about loyalty?

A No. She was just -- it started off with her doodling on a piece of paper. Like, she was just -- she was just showing people -- well, the kids in the classroom like, stuff she could do, I guess. I don't know, to be honest.

Q And -- and I think you already answered this, but how did that make you feel?

A Oh, very, very -- what's the word I'm looking for? I already say humiliated, but I also felt kind of like, different from the others. Especially in her classroom environment. Because it just -- it just didn't sit right with me, the fact that she -- she put something on my arm and it wasn't even spelled right. So it just -- it just didn't really sit right with me because it just -- it just looked goofy. And then when I tried to wash it off, it wouldn't come off. So I had to wait like, a day or two, so it was just -- it was just kind of like there for like, a couple days.

Q Okay. So it was on there for a couple days. What -- did you say this was the last day of school?

A No, it was the last week of school.

Q Last week of school. Okay.

A Yes.

Q All right. Okay. Have you -- is this—is this an issue that you discussed with your counselor—Miss—I think it's, Ms. Boone?

A From Sneed?

Q No. I'm sorry.

A Oh, you're talking about Doctor –Dr. Pritchard-Boone?

Q Yes.

A Oh, oh, yes, sir. Yes, sir.

Q Okay. How -- how many times did you did you talk to her about it?

A A few --a few for her to be familiar, anyway. (End of Testimony)

David Lyon again misleads the Courts by saying Kathy Luhrs conduct was "intentional" *but the District was not or should have been aware of how Ms. Luhrs had acted*. On the contrary, evidence was given to the District several times by the parents. Brian Denny, Director of Special Education on 5/30/2018, Richard O'Malley, Superintendent on 12/3/2018, the Board of Trustees, and SC Department of Education. The District employees committed perjury in their depositions below:

Evidence: Brian Denny DPH Transcript (Perjury) 10/20/2020 Page 148 line 8-24
Q. Was there ever a facilitated IEP meeting at on May 30, 2018 Sneed Middle School?
A. Yes.
Q. Okay. Were you given evidence of teacher abuse of my son's religious civil rights being violated?
A. No.

Page 152 line 10-14
Q. Okay. Have you ever seen this picture?
A. Yes.
Q. Okay. Where?
A. I've seen it over email. That's where I remember it was, over email.
Q. Okay. Did there ever come another time where there had to be a facilitated IEP meeting for my son?
A. There -- yes, there was other requests for a facilitated meeting, yes. (End of Testimony)

When the mother (Hannah Secka) pulled out her cell phone and displayed the image to the IEP Team and the SC Department of Education State Facilitator Bruce Smith stated, "*Now, that the mother has thrown a grenade give her everything she asked for in (M.Y.N.S.) IEP, BIP, and IHP!*" Not to mention, Kathy Luhrs was present at the Facilitated IEP Meeting and admitted to the act! The mother was traumatized on the brink of insanity that a teacher would write on her son in such a degrading manner as if her child was like chattel or branded like a slave and violate a defenseless disabled child's Muslim religious beliefs that go against any ink, carving, or writing on the body. Nevertheless, giving false testimony in court or falsely swearing before someone who is authorized to administer oaths. The penalty is up to five (5) years in prison and a fine at the court's discretion. In South Carolina, perjury is a crime that involves giving false or misleading testimony under oath or providing false information in a required document. Brian Denny intentionally lied under oath to conceal the abuse, neglect, religious and racial discrimination Kathy Luhrs committed against (M.Y.N.S.). The physical evidence of Kathy Luhrs conduct was given to him along with every school staff member in attendance of the IEP Meeting held on 5/30/2018 and they all failed (M.Y.N.S.) as a mandatory reporter. But it was Brian Denny, Special Education Director, who reassured parents adverse action would be taken and it was not! The abuse continued against (M.Y.N.S.).

Richard O'Malley, FSD1 Superintendent, signed his contract on May 4, 2018, and assumed his role in August 2018. Hannah Secka contacted him directly on 11/26/2018, after Brian Denny caused the parent to suffer a stroke in a 11/19/2018 IEP Meeting. He met with the parent Hannah Secka on 12/3/2018, to hear her grievances and took possession of the three (3) photos containing the teacher abusing (M.Y.N.S.) by forcibly writing on him with a permanent sharpie marker in a gang style tattoo without consent, the visible bodily injuries to his face, lips, and back, that occurred in football locker room. Whether a "hazing" "sexual assault" and the "assault & battery" by the quarterback and other upper classmen." Due to the districts' acts of "gross negligence" and "extreme recklessness" there is no investigation or supporting documentation other than what the parents secured from the Sheriff Department. Richard O'Malley attended a scheduled Facilitated IEP Meeting on 1/14/2019 at West Florence High School with Bruce Smith, SCDE Facilitator. Which had to be tabled due to Brian Denny's gross negligence when he failed to bring the Independent Educational Evaluation (IEE) data from 2017 regarding (MYNS) autism diagnosis to give him the proper services for his physical and mental disabilities in accordance with federal disability laws. Whereas the parents could bring a Section 1983 lawsuit for a Child Find Mandate violation for failing to identify (MYNS) autism when the District (FSD1) evaluated him in 2014.

Evidence: Richard O'Malley Deposition Transcript 9/6/2023
By Darryl C. Caldwell, Plaintiffs Attorney

Page 8

Q. Do you recall ever participating in an IEP meeting with Hannah, Moudou, and other members of your special services department?
A. I remember being in an IEP meeting, but I don't recall who else was there.

Q. Do you recall being in any due process hearings with Hannah Secka regarding services being provided to her son, Moudou-Yatsen?

A. I do recall. I don't recall when, but I do recall being at one.

Q. Okay. Do you recall being at more than one?

A. No

Page 15

Q. One of allegations in the complaint is that Kathy Luhrs wrote on plaintiff's Yatsen -- Moudou-Yatsen Secka's arm. Do you recall that occurring?
A. Do you know what the date of that occurrence was?

Q. On about May 29th, 2018.

A. No.

Page 23-24

Q. So I'll rephrase the question. Do you recall Hannah Secka filing a complaint with the Office of Civil Rights against you or -- and Florence County School District One?
A. I don't recall. Any of those complaints that come in go directly to our attorneys who handle it.

Q. Okay. Do you provide any input to complaints that are filed to you or the district?
A. I do not. My assistant superintendent has been handling those.

Q. And your assistant superintendent that handled that for you, what's their name?
A. His name is Greg Hall. And can -- Hall? Hall?

Q. Okay. You don't recall ever meeting with Hannah Secka regarding any issues with her son, Moudou-Yatsen Secka?
A. I do not recall.

Q. Did you -- do you recall signing any resolution agreement with the Office of Civil Rights and Hannah Secka?
A. I don't recall.

Q. Do you recall meeting -- strike that.
Do you record meetings that you participate in with parents of students in the school -- in Florence County School District One?
Do you recall ever meeting Hannah Secka in your office in a meeting regarding her son, Yatsen --Moudou-Yatsen Secka?
A.I do not recall.

Evidence: (Correspondence 11/26/2018 to O'Malley for 12/3/2018 parent meeting)
From: Hannah Secka hannsc2@aol.com
Date: November 26, 2018 at 9:48 AM EST
To: Richard O'Malley romalley@fsd1.org
Cc:JGalloway@fsd1.org, alexixpipkins@aol.com, ejmciver@fsd1.org, pstewart@mcgowanlaw.com,
Subject: Secka (WFHS)

I am requesting an immediate meeting to address my parental concerns about WFHS staff and your Director of OEC. Please be prompt!

Hannah Secka
843 407 8867

From: Hannah Secka <hannsc2@aol.com>
Date: November 26, 2018 at 3:02:10 PM EST
To: Richard O'Malley <romalley@fsd1.org>, bdrayton@ed.sc.gov

Subject: Fake Secka Meeting

This meeting never occurred. Nor did I participate. This is an illegal act to correct their improper actions.

Hannah Secka

On Nov 26, 2018, at 4:34 PM, RICH O'MALLEY <romalley@fsd1.org> wrote:

Thank you for your email regarding a meeting. It is my understanding that this matter will be addressed a future IEP meeting and/or mediation.

From: Hannah Secka <hannsc2@aol.com>
Date: November 26, 2018 at 5:12:02 PM EST
To: RICH O'MALLEY <romalley@fsd1.org>, Barbara A Drayton <bdrayton@ed.sc.gov>, dsteppara@ed.sc.gov

Subject: Re: Fake Secka Meeting

Thank you Dr. O'Malley for your response but I have been informed by Barbara Drayton that Mr. Denny has refused to participate in the Mediation Process.

On Nov 26, 2018, RICH O'MALLEY <romalley@fsd1.org> wrote:

How's Monday, December 3rd at 9:00 am at the district office?

Richard O'Malley intentionally committed perjury in his deposition on 9/6/2023. Greg Hall was hired in April 2020. He definitively knew he met with Hannah Secka on 12/3/2018 at 9am at the district office, where Hannah Secka informed him of the gross negligence and extreme recklessness of Brian Denny failing to report Kathy Luhrs, Coach Jeff Lee and Mathew Dowdell for educator misconduct. O'Malley personally asked Plaintiff if he could make copies of the injuries of (M.Y.N.S.) and he was allowed. The parent clearly informed the superintendent about the locker room hazing, assault, and sexual contact. After O'Malley met with the parents and she made it abundantly clear that the parent and the student did not want to attend WFHS due to the ongoing physical attacks, improper searches, detainment, isolation, academic failure, teacher-peer disability-based harassment, intimidation, bullying and failure to protect (M.Y.N.S.) from harm and injury both physically and emotionally. The child was afraid to attend school due to the school employees' gross negligence and extreme reckless actions toward him. O'Malley promised Plaintiffs relief in firing Brian Denny and Kathy Luhrs and possibly sending (M.Y.N.S.) to the out-of-district placement for his safety.

When it comes to the football locker room incident:

Most egregiously, on page 5, Attorney Lyon's states: the District *failed to prevent (M.Y.N.S.) from getting into a "tussle" with two of his teammates in the locker room*. There was no tussle, he was attacked! Here is (M.Y.N.S.) testimony:

Evidence: (M.Y.N.S.) Deposition Testimony on page 89-102
Hazing/Sexual Assault/Assault & Battery 3rd Degree

Evidence: (FCSO Incident Report # 2019-02-0194) Assault & Battery 3rd


(*visible bodily injuries open-handed slaps in face and busted lip*)

By MR. LYON: (M.Y.N.S.)
Okay. This was the locker room
21 incident. So this was when me -- well, this is
22 when I first started playing football actually.
23 Yeah.

Q As a freshman, right?
A Right. Right. And I guess, like,

1 they had this thing going on, call like, fresh
2 meat, basically. So, at first -- when I first,
3 like, joined the team, I didn't know what it meant
4 until like, other people would describe to me what
5 it meant basically.

Q Let me stop you real quick. Did you
say fresh meat -- M-E-E -- I'm sorry. M-E-A-T?

11 meant
12 started playing football, we were going to locker
13 rooms and you know, we would all change and stuff.
14 And it'll be kind of like -- it'll be common for
15 the boys to start acting gay when we would change
16 and like, put on our -- our football gear,
17 basically. It'll be a common thing like, for the
18 boys to actually start acting gay and stuff.

19 Because like, that'd just be like -- that'd just
20 be some people's thing, you know.

But one -- one particular day, I

22 remember these two -- these two white males, they

23 were messing with me because -- well, one came up

24 to me. He was like -- he was like, who are you?

*25 Oh, he was like, **you the fresh meat**. And I was*

A Right. Right.

Q Okay. All right. Go ahead. Sorry.

A Now, I didn't understand what the term at the time, but I do now. So when I first

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1 like, what you mean by that? And he start

2 laughing. And then he went and got his friend.

3 He was like, hey, bro, we got fresh meat. And

4 they start laughing. And then they start like,

5 laughing and getting closer and closer to me like,

6 as I'm changing my clothes and stuff. And so one

7 of the boys ends up like, grabbing my pants (penis area) and

8 ends up just yanking them like, as I'm trying to

9 put my pants on.

10 And so I began to get up and try to

11 basically defend myself because I had to point --

12 at that point, I just felt like they was just

13 trying to play with me just because I was new. So

14 as I'm trying to defend myself, that's when they

15 both end up just basically start attacking me.

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19 Q All right. Is this an issue that

20 you've talked with Ms. Pritchard-Boone about?

21 A Right.

22 Q No, that's a question. Is it?

23 A Oh, yes. Yes.

24 Q Okay. On more than one occasion?

25 A Right.

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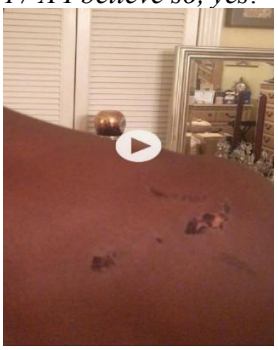
1 Q All right. What have those
2 conversations been about?
3 A Well, me and Dr. Pritchard -- well, we
4 frequently had conversations when it came down to
5 like, school and like, things outside of school.
6 But like, when -- there's certain topics that
7 involve school would be topics that we're talking
8 about right now. Like, football, bullying
9 problems, class problems like, really anything
10 that involves school, me, my mother like, our
11 personal problems. But like, yeah. Yeah, that's
12 -- that's basically what we would talk about.
13 Q All right. And I think your mom
14 stated that she felt like that attack was
15 essentially, criminal in nature, against the law,
16 as we discussed earlier.
Q Do you agree with that?
17 A I believe so, yes!



(*open wounds requiring constant doctors' care*)

On page 6 Lyon's minimized the brutal attack that (M.Y.N.S.) endured and the District suppressed evidence and concealed the crime to protect the quarterback on the West Florence High School football team (Cooper Wallace). Plaintiff (M.Y.N.S.) clearly described the criminal act of assault/hazing/battery/sexual contact by several teammates. Attorney Lyon deliberately distorted (M.Y.N.S.) testimony in the

2/12/2024 Motion. Attorney Lyon intentionally provided false misinformation to the Circuit Courts in his narrative for Summary Judgment. Plaintiff (M.Y.N.S.) definitively testified that he was attacked in the locker room with no supervision of school staff. He identified who did it and who he reported it to, and no action was taken. There is no mandatory Title IX investigation of these concealed crimes that have no statute of limitations, where a Writ of Mandamus is appropriate. Their conduct is indeed gross negligence and extreme recklessness under the South Carolina Tort Claims Act. Richard O'Malley, Brian Denny, and Matthew Dowdell (WFHS) are in another Title IX federal lawsuit for *Criminal Sexual Contact* where a rape (sexual assault) was concealed of a special education student at WFHS on November 8, 2023. FSD1 has a pattern of concealing school crimes. Especially at West Florence High School. Another black disabled child was raped and given Gonorrhea by a white counterpart at West Florence High School. Which was intentionally concealed, and evidence was suppressed according to the lawsuit. The Board of Trustees allowed Matthew Dowdell to resign in disgrace and now he's working in Darlington County School District in Hartsville, SC at the Governor School of Science & Mathematics.

Evidence: Articles: *Florence 1 Schools Sued Over Suspected Sexual Assault at Schoo*l by, Tonya Brown abc15News
-"*When did this become rape?*" ~Richard O'Malley by, WMBF News 10/8/2024
-Jane Doe v. Richard O'Malley Florence 1 Schools Case No. 4:2024cv05305
-Florence School District Tried to Suppress Sexual Assault, Federal Lawsuit Claims

Football was (M.Y.N.S.) dream, considering all his adversities being born dead due to a birth injury of Traumatic Brain Injury (TBI) skull fracture and told you had cerebral palsy, paralysis and chances he would never walk, talk, or be able to hear. This young man beat all the odds and persevered with tenacity and resilience. It was Matthew Dowdell, Principal of West Florence High School (WFHS), who took (M.Y.N.S.) to the School Resource Officer office to be physically attacked by Deputy Jablonski Greene. Sheriff Joye apologized, fired the deputy, and settled for their wrongdoing with the Plaintiffs in Mediation on 10/26/2023. On the other hand, Richard O'Malley stated, "*I'm not giving the mother a dime!*"

On page 4 Lyon violated (M.Y.N.S.) FERPA right to privacy by stating, "*he took another students property and refused to return it, hitting a teacher who took his phone, pant-sing another student, cursing at a teacher, cheating, punching a student in the face, and fighting*." All of which the mother had no knowledge of and never received any such discipline referrals from 2017-2019 in the context of what defense counsel put in a legal document for summary judgment.

(M.Y.N.S.) ***disability privacy rights*** of his discipline records are protected under the Family Educational Rights and Privacy Act (FERPA), a student's education record is any record maintained by an educational agency or institution that is directly related to a student and contains personally identifiable information. Lyon's had no written consent from the parents, he spoke of accusations that were

fabricated, and the parent had no knowledge of such incidents, and the parents were never given an opportunity to *Object* to this information as evidence in the lawsuit through undersigned counsel Darryl C. Caldwell, which is required by the law for children with special education rights. As a result of the mother's efforts and the gross negligence and retaliatory actions of the District by continuously suspending (M.Y.N.S.) when he was not even at school. This abuse is considered Exclusionary Discipline (*punishing (MYNS) a disabled student for behavior that are a manifestation of his disabilities)*. On 11/18/2019, an Manifestation Determination Review (MDR) hearing was held regarding FSD1's disproportionate suspension of (M.Y.N.S.) for disability-related issues, which violated his civil rights. The IEP Team determined that his behaviors stem from his Traumatic Brain Injury (TBI), Autism, and ADHD. His discipline records are confidential, and David Lyon's portrayal of the (M.Y.N.S.) character was inaccurate and defamatory.

Therefore, Hannah Secka and (M.Y.N.S.) are entitled to damages, both actual and punitive to an amount determined by a jury to be sufficient to compensate her fully for the physical and emotional harm she suffered, and punitive in the amount to impress upon Duff- Freeman-Lyon Law Firm the seriousness of their conduct and to deter such similar conduct in the future.

Hannah Secka and (M.Y.N.S.) may recover damages for emotional distress caused by David N. Lyon's actions of the (Duff-Freeman-Lyon Law Firm) for the

intentional deception on the 12th Circuit Cour. *The conduct described above was so extreme and outrageous that it exceeds all possible bounds of decency and is atrocious and utterly intolerable in a civilized community*. I seek that he be **DISBARRED** by the ODC from practicing law in South Carolina and North Carolina and $300,000 restitution, suspension, fines and public reprimand for him and the Duff-Freeman-Lyon law firm. After the District was GRANTED summary judgment by Judge Nettles David Lyon left the State of South Carolina and went to North Carolina. The firm changed their name and insurance bond.

Accordingly, Judge Nettles ORDER has stated: "*Plaintiffs have pled facts sufficient to establish damages for emotional distress because a reasonable jury could find the conduct of the District employees to be "extremely reckless." Plaintiffs have alleged facts sufficient to prove gross negligence, and District's failure to act, not to students' intentional conduct, therefore immunity would not be proper. Judge Nettles ORDER states: This argument fails because Plaintiffs are not asserting that they are entitled to relief based on acts of the student but rather the District's employees failure to act when given notice of potential danger, and their reckless choice to not supervise (MYNS) properly. The District IS NOT immune from the claim of negligent supervision. Therefore, Plaintiffs have shown that a genuine issue of material facts exists as to whether the District through its employees, conduct was "grossly negligent" or "extremely reckless" which is a question for the jury."*

CONCLUSION

The South Carolina Court of Appeals has the opportunity in this case to create a rule that encourages cooperation that strengthens public policy of the State. This can be accomplished through a ***Writ of Mandamus*** to compel the District (FSD1) to comply with statutory laws in search of the truth and justice for Hannah Secka and (M.Y.N.S.) for the crimes committed against them, and instruct the 12th Circuit Court to return to its original Order Denying Motion for Summary Judgment dated 2/27/2024 and **REVERSE** and **REMAND** this case to appropriate jurisdiction for trial by jury.

Respectfully, submitted,

/s/ Hannah L. Secka (*Pro se litigant*)
(Moudou-Yasen Nasir Secka) Age 21
(*Pro se disabled litigant*)
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August 28, 2025
Florence, South Carolina

RECEIVED
Aug 27 2025
SC Court of Appeals

The State of South Carolina
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

Hon. Michael G. Nettles, 12th Circuit Court Judge
Case No. 2021-CP-21-02121

(Appellate Case No. 2024-001454)

Hannah L. Secka, Individually and (M.Y.N.S.)

Appellants-Plaintiffs

vs.

Florence School District One (FSD1) *and*
Florence County Sheriff Department (FCSD)

Appellee-Defendants

Certificate of Service

I **Hannah L. Secka**, hereby certify that she has caused the following party of record to be served with the foregoing, ***Appellant Initial Reply Brief*** to be included in the record in the above captioned matter, by electronic/e-mail, and by mailing a copy on this ***28th*** day of ***August 2025***: A signature is required upon receipt form US Postal Service due to tracking.

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