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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Paul M. Burch, Circuit Court Judge

Appellate Case No. 2025-001338

Ida Maeve Nordan, Randall Houston Nordan and Chip Eugene McCants, Jr.,

by and through his parent and natural guardian, Ida Maeve Nordan,..... Appellants,

v.

Sheriff of Richland County in his official capacity, and Half Moon Pictures, LLC, Defendants,

of which Half Moon Pictures, LLC is the.....Respondent,

RECORD ON APPEAL

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¹ This designation by the Appellant has been objected to by Respondent.

NATIVE FILES

14. Exhibit 1 to Memorandum in Support of Motion to Dismiss Amended Complaint
by Defendant Half Moon Pictures, LLC dated October 22, 2024
2024.10.22 - Memorandum in Support of Def Half Moon Pictures' Motion to
Dismiss Ex. 1_ Clip 1 from As-Aired May 5, 2023 Episode of On Patrol_ Live 44
15. Exhibit 2 to Memorandum in Support of Motion to Dismiss Amended Complaint
by Defendant Half Moon Pictures, LLC dated October 22, 2024
2024.10.22 - Memorandum in Support of Def Half Moon Pictures' Motion to
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16. Exhibit 3 to Memorandum in Support of Motion to Dismiss Amended Complaint
by Defendant Half Moon Pictures, LLC dated October 22, 2024
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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	Civil Action No.: 2023-CP-40-06659
Ida Maeve Nordan, Randall Houston	)	
Nordan and Chip Eugene McCants, Jr., by	)	
and through his parent and natural	)	
guardian, Ida Maeve Nordan,	)	
	)	ORDER OF DISMISSAL AND ORDER
Plaintiffs,	)	OF WITHDRAWAL OF COUNSEL
	)	
vs.	)	
	)	
Sheriff of Richland County in his official	)	
capacity, and Half Moon Pictures, LLC,	)	
	)	
Defendants.	)	
	)	

Defendant Half Moon Pictures LLC (“Half Moon”) filed a motion to dismiss Plaintiff’s Amended Complaint, pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure on January 8, 2024, and a hearing was set on August 20, 2024, which was continued by consent of the parties. Plaintiffs then filed a motion to compel against Defendant Richland County Sheriff’s Department (“RCSD”) on August 28, 2024. Half Moon also filed a motion to withdraw Riley Bearden and Brett Bayne as counsel of record.

On October 22, 2024, Half Moon submitted a memorandum in support of its motion to dismiss, and this Court held a hearing via Webex on October 30, 2024, to address these motions. Having considered the arguments and briefing of the parties, the Court grants Half Moon’s motion to dismiss.

The basic underlying facts, accepting the Plaintiffs’ allegations as true, are as follows. On May 5, 2023, Plaintiff Ida Maeve Nordan (“Ms. Nordan”) drove her vehicle on a public street in

Richland County with her son, Plaintiff Chip Eugene McCants, Jr. (“CJ”),¹ in the passenger seat. At approximately 10:30 pm, Robshane Rogers committed a traffic violation in the presence of a Richland County Sheriff’s Department (“RCSD”) deputy. When the RCSD deputy attempted to make a traffic stop, Rogers sped away and a high-speed car chase ensued. After reaching speeds in excess of 85 miles per hour, the pursuit ended when Rogers ran a red traffic light and crashed into Ms. Nordan’s vehicle at an intersection.

A film crew for the television program *On Patrol: Live* (“OPL”), produced by Half Moon, rode along with the arresting officer the night of the incident and filmed the attempted stop, car chase, collision, and efforts to secure the scene, which was featured in an episode of the program that night.

In this lawsuit, the Plaintiffs brought claims for negligence and bystander liability against RCSD and Half Moon, based on injuries sustained following Rogers’ collision with Plaintiffs’ vehicle. Half Moon filed a motion to dismiss pursuant to Rule 12(b)(6), SCRPC arguing Plaintiffs’ claims all fail as a matter of law because Half Moon, as a media company, did not owe Plaintiffs a duty of care to protect against intentional and independent conduct of a third party.²

LEGAL STANDARD

At the Rule 12(b)(6) stage, “[t]he question to be considered is whether, when viewed in the light most favorable to the plaintiff, the complaint states any valid claim for relief.” *Carolina Care Plan, Inc. v. United HealthCare Servs.*, 361 S.C. 544, 550, 606 S.E.2d 752, 755 (2004). Trial courts may also “consider documents that are incorporated by reference in the complaint but not

¹ This Order collectively refers to Ms. Nordan, CJ, and Plaintiff Randall Houston Nordan, who is Ms. Nordan’s husband, as the “Plaintiffs.”

² Half Moon also argued that its conduct in filming police encounters with the public is constitutionally protected speech under the First Amendment. It is unnecessary for the Court to address this argument in light of the Court’s conclusion on the duty of care issue.

actually attached thereto.” *Brazell v. Windsor*, 384 S.C. 512, 516, 682 S.E.2d 824, 826 (2009).

LEGAL CONCLUSIONS

The Court agrees with Half Moon that as a matter of law, Half Moon does not owe a duty of care to Plaintiffs. “In any negligence action, the threshold issue is whether the defendant owed a duty to the plaintiff,” *Bass v. Gopal, Inc.*, 395 S.C. 129, 134, 716 S.E.2d 910, 913 (2011), which is a question of law for the court. *Washington v. Lexington Cty. Jail*, 337 S.C. 400, 405, 523 S.E.2d 204, 206 (Ct. App. 1999). For a duty to arise, Plaintiffs must properly allege a “statute, contract, relationship, status, property interest, or some other special circumstances” that creates the duty. *Cowbum v. Leventis*, 366 S.C. 20, 46 (Ct. App. 2005) (citation omitted). “Proof of negligence in the air, so to speak, will not do.” *Batson*, 345 S.C. at 323, and courts must not extend the “concept of duty in tort liability ... beyond reasonable limits.” *Huggins*, 355 S.C. at 333 (citing *Morris v. Mooney*, 288 S.C. 447 (1986)).

“Under South Carolina law, there is no general duty to control the conduct of another or to warn a third person or potential victim of danger.” *Faile v. S.C. Dep’t of Juv. Just.*, 350 S.C. 315, 334 (2002). As a result, in situations where a plaintiff’s injuries are caused by someone other than the defendant, a duty arises only “1) where the defendant has a special relationship to the victim; 2) where the defendant has a special relationship to the injurer; 3) where the defendant voluntarily undertakes a duty; 4) where the defendant negligently or intentionally creates the risk; and 5) where a statute imposes a duty on the defendant.” *Doe v. Wal-Mart Stores, Inc.*, 393 S.C. 240, 246-247 (2011). Plaintiffs argue that Half Moon owed a duty under the second and fourth circumstances above, but this Court finds neither of those situations applies in this case.

1. Half Moon Had No Special Relationship With The Injurer

Under South Carolina law, “[t]he defendant may have a common law duty to warn potential victims under the ‘special relationship’ exception when the defendant ‘has the ability to monitor,

supervise, and control an individual's conduct' and when 'the individual has made a specific threat of harm directed at a specific individual.'" *Wal-Mart Stores*, 393 S.C. at 247 (citations omitted).

Even accepting all well pleaded allegations as true, as the Court must do, Plaintiffs fail to allege any facts supporting the kind of special relationship that can impose a duty over the actions of third parties like Rogers. Further, the cases where a special relationship has arisen are readily distinguishable. *See, e.g., Rayfield v. S.C. Dep't of Corr.*, 297 S.C. 95, 109-10 (Ct. App. 1988) (Department of Corrections "arguably owed a duty of care to others to prevent foreseeable harm [a third-party] might do them" while third-party was in prison); *Bishop v. S.C. Dep't of Mental Health*, 331 S.C. 79, 87 (1998) (Department of Mental Health had special relationship with patient in its custody, but only had "duty to warn" plaintiff if it "knew or should have known a specific threat was made by [the patient]").

To the extent Plaintiffs allege that RCSD was the injurer, and Half Moon had a special relationship with RCSD by virtue of its Access Agreement, Plaintiffs' claims still must fail. Half Moon's relationship with RCSD was a contractual agreement that does not evince any intention to create a special relationship between Half Moon and third parties. The *OPL* crewmember was present in the deputy's vehicle pursuant to a June 10, 2022 Access Agreement ("Access Agreement" or "AA") between Half Moon and RCSD.³ The Access Agreement makes clear that the two entities operated independently and that the parties bore no responsibility for each other's actions, *i.e.*, that Half Moon and RCSD "do not by this Agreement intend to form an employment relationship or a partnership or a joint venture between them and in no event shall this Agreement be construed to constitute such an employment relationship, partnership or joint venture." AA at

³ The Amended Complaint repeatedly incorporates allegations concerning the Access Agreement. *See* FAC ¶¶ 12-15, 18. Thus, the Agreement is incorporated by reference into the Amended Complaint and may be considered on this dismissal motion. *See Brazell*, 384 S.C. at 516.

§ 12. The Access Agreement further provides that “RCSD and RCSD Personnel shall at all times continue to independently conduct their operations and activities as they customarily operate, without regard to, or as a result of, the filming, recording and production of [OPL].” *Id.*; *see also id.* at § 3 (“RCSD Personnel shall conduct themselves pursuant to RCSD policies governing on and off duty conduct. RCSD Personnel shall not make any law enforcement decisions, or take any or not take law enforcement action due to the presence of Producer personnel in relation to the Series, and Producer shall be expressly prohibited from requesting RCSD Personnel make any law enforcement decisions, or take or not take, any law enforcement action due to Producer’s presence or in relation to the Series.”).

Half Moon and RCSD further agreed that they “are fully independent of one another and not collaborating in any capacity hereunder in connection with the Series or any law enforcement activities that occur while [Half Moon] is documenting the activities of RCSD or otherwise.” AA at § 12. Consistent with this independent status, the Access Agreement expressly provided that Half Moon had ultimate editorial control over the content of each episode of *OPL*. *See id.* § 6 (“it is understood that [Half Moon] and any television network for which [Half Moon] is producing the series [] shall, in their sole discretion, make the final decision regarding the content and editorial decisions for the Series and each episode thereof.”).⁴ Given the foregoing, Half Moon had no legal or practical control over the actions of the officers who responded and assisted with the pursuit and arrest of Rogers.

Further, this Court is persuaded by case law supporting dismissal at the Rule 12(b)(6) stage

⁴ The Access Agreement provides RCSD with a 48-hour window “to review and comment on any pre-recorded segments of the Series featuring RCSD Property or RCSD Personnel for the sole purpose of identifying any safety or security risks to RCSD (e.g., recognition of a confidential informant, undercover officer, how specific tactics are deployed).” AA § 6.

involving circumstances less attenuated than those here. *See Mitchell v. Big Fish Entm't, LLC*, No. 1:21-cv-00388-RP, 2022 U.S. Dist. LEXIS 203937, at *9 (W.D. Tex. Nov. 8, 2022) (rejecting the argument that a production company associated with the police ride-along program Live PD had any legal duty that would warrant tort liability for filming and televising plaintiff's arrest in which he was seriously injured not by a fleeing suspect, but by the actual arresting officers with whom the production company was riding). As in *Mitchell*, Half Moon had no legal right to control or direct the RCSD deputy's conduct or take any affirmative role in the pursuit of Rogers, or the ability to influence Rogers, who is the one that fled RCSD and collided with Plaintiffs' vehicle.

2. Half Moon Did Not Negligently or Intentionally Create Any Risk

Plaintiffs also allege that Half Moon negligently created a risk of the pursuit and crash by virtue of filming RCSD for an episode on *OPL*, thereby "encouraging aggressive policing practices in order to produce entertaining television" and "rewarding RCSD and its deputies for aggressive policing through the allure of fame and celebrity at the cost of public safety." Amended Complaint ¶¶ 49(c), (g). Even if the Court accepts Plaintiff's allegations that the RCSD deputy on the scene acted negligently in his duties due to the presence of cameras – an allegation Half Moon contends is directly refuted by the footage of the incident – this does not impose a duty on Half Moon because it is Half Moon's actions that must be viewed to determine whether it negligently or intentionally created a risk of harm.

Even viewing the facts here in the light most favorable to Plaintiffs, as the Court must do, the circumstances here – where Half Moon passively filmed police officers doing their jobs in the context of a documentary television show – are vastly distinguishable from cases in which courts have found that a defendant negligently or intentionally created a risk. *See, e.g., Montgomery v. Nat'l Convoy & Trucking Co.*, 186 S.C. 167, 179, 195 S.E. 247, 252 (1938) (trucking company owed duty to warn other motorists of risk created by its truck being disabled on side of roadway);

Edwards v. Lexington County Sheriff's Department, 386 S.C. 285, 293, 688 S.E.2d 125, 130 (2010) (sheriff's department owed duty of care to a victim who was attacked by her ex-boyfriend at a bond revocation hearing, where sheriff's department created a risk by scheduling hearing without security present despite specific knowledge of ex-boyfriend's violent tendencies). And where, like here, the plaintiffs' injuries are caused by a third party's criminal conduct, generally alleging that the defendant acted with negligence is not sufficient. *See, e.g., Wal-Mart Stores*, 393 S.C. at 242, 247-48 (affirming dismissal of negligence claim against Wal-Mart for failure to report suspected physical abuse of a child, where photographs depicting abuse were allegedly developed by Wal-Mart's photography department, because "Wal-Mart did not negligently or intentionally create the risk of the father's sexual abuse"). In sum, Half Moon did not, by virtue of the presence of cameras in RCSD squad cars, create a risk that RCSD deputies would take negligent actions outside the scope of their duties, and it cannot be held to have a duty to prevent the plaintiff from suffering injuries from Rogers or any of the RCSD responding officers.⁵ Accordingly, because no duty of care exists, Plaintiffs' negligence claims fail.⁶

⁵ Other courts have repeatedly found media-related injuries unforeseeable in analogous negligence actions. *See, e.g., Davidson*, 1997 WL 405907 at *13 (dismissing negligence claim against distributor of Tupac Shakur rap song related to the murder of a police officer because "[t]he record indicates that Defendants could not reasonably foresee that distributing 2Pacalypse Now would lead to violence. To be sure, Shakur's music is violent and socially offensive [but t]his fact, by itself, does not make violence a foreseeable result of listening to 2Pacalypse Now" and "[c]onsidering the murder of Officer Davidson was an irrational and illegal act, Defendants are not bound to foresee and plan against such conduct."). Likewise, the Court's inquiry ends here: the absence of foreseeability provides an independent basis to dismiss the Plaintiffs' negligence claim against Half Moon.

⁶ Plaintiff CJ has also asserted a claim for "bystander liability" against Half Moon and RCSD. Based on the Court's conclusion that Half Moon does not owe a duty of care, this claim also fails. *See, e.g., Doe v. Greenville Cty. Sch. Dist.*, 375 S.C. 63, 67, 651 S.E.2d 305, 307 (2007).

Accordingly, the Court GRANTS Half Moon's motion to dismiss with prejudice. Regarding Plaintiff's motion to compel and Half Moon's motion to withdraw as counsel, the Court rules as follows: the parties informed the Court during the hearing that they had resolved Plaintiff's motion to compel, so no decision is necessary on that motion. Additionally, as there were no objections to Half Moon's motion to withdraw as counsel, the Court GRANTS the motion to withdraw Riley Bearden and Brett Bayne as counsel for Half Moon.

IT IS ORDERED.

The Honorable Paul M. Burch
Presiding Circuit Judge

November __, 2024
Columbia, South Carolina



Richland Common Pleas

Case Caption: Ida Maeve Nordan , plaintiff, et al vs Richland County Sheriffs
Department , defendant, et al
Case Number: 2023CP4006659
Type: Order/Other

So Ordered

s/Paul M. Burch, Judge #2048

Electronically signed on 2024-12-18 14:13:55 page 9 of 9

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Richland
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2023CP4006659

Ida Maeve Nordan et al
PLAINTIFF(S)

Sheriff Of Richland County In His Official Capacity
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Plaintiff's Motion to Reconsider the Order Granting Defendant Half Moon Pictures, LLC's Motion to Dismiss is DENIED. It is so ordered!

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/25/2025 .

Sheriff Of Richland County In His Official Capacity

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Richland Common Pleas

Case Caption: Ida Maeve Nordan , plaintiff, et al vs Richland County Sheriffs
Department , defendant, et al
Case Number: 2023CP4006659
Type: Order/Electronic Form 4

So Ordered

s/Paul M. Burch, Judge #2048

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FOR THE FIFTH JUDICIAL CIRCUIT

Ida Maeve Nordan, Randall Houston)
Nordan and Chip Eugene McCants, Jr., by)
and through his parent and natural guardian,)
Ida Maeve Nordan,)

Plaintiffs,)

vs.)

Sheriff of Richland County in his official)
capacity, and Half Moon Pictures, LLC,)

Defendants.)

SUMMONS
(JURY TRIAL DEMANDED)

TO THE DEFENDANTS ABOVE-NAMED:

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

Lexington, South Carolina
_____, 2024

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FOR THE FIFTH JUDICIAL CIRCUIT
) CASE NO.: 2023-CP-40-06659

Ida Maeve Nordan, Randall Houston) **AMENDED COMPLAINT**
Nordan and Chip Eugene McCants, Jr., by) (Negligence/Gross Negligence)
and through his parent and natural guardian,) By-Stander Liability
Ida Maeve Nordan,)
))

Plaintiffs,)

JURY TRIAL DEMANDED!

vs.)

Sheriff of Richland County in his official)
capacity, and Half Moon Pictures, LLC,)
))

Defendants.)

Parties & Jurisdiction

1. Plaintiff Ida Maeve Nordan (“Maeve”) is a citizen and resident of Lexington County, South Carolina.

2. Plaintiff Randall Houston Nordan (“Houston”) is a citizen and resident of Lexington County, South Carolina, who at all times relevant hereto was and remains married to Maeve Nordan.

3. Plaintiff Chip Eugene McCants, Jr. (“CJ”) is a citizen and resident of Lexington County, South Carolina, who at all times relevant hereto was and remains Plaintiff Maeve Nordan’s son.

4. Upon information and belief, Defendant Sheriff of Richland County in his official capacity, (the “Sheriff”) is a governmental entity pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.* and is entrusted with serving and protecting the citizens of Richland County.

5. Upon information and belief, Defendant Half Moon Pictures, LLC, (“Half Moon”)

is a limited liability company existing under the laws of one of the several states of the United States which produces a television show under the name “On Patrol: Live” and/or “Live PD” and which partnered with the Sheriff to produce such a show featuring live policing by Deputies employed by the Sheriff for television entertainment purposes.

6. This Court has jurisdiction over the parties to and the subject matter of this action.

Factual Background

7. In March 2019, Javier Ambler was killed by Williamson County Sheriff’s Deputies during the filming of a Live PD episode in the State of Texas.

8. In reviewing Ambler’s death, the legislature of the State of Texas expressed concern about television shows that showed policing for entertainment purposes and a bill was introduced to pass Javier Ambler’s Law making it unlawful to film a peace officer in the line of duty for the purpose of producing a reality television program.

9. In considering the Bill, the Texas legislature weighed the potential infringement on the Constitutional rights of freedom of press and of speech against the concern that police reality television programming created a perverse incentive for peace officers to act more intensely when carrying out their duties in front of a camera than they would otherwise, including specifically as it related to dangerous car chases and overzealous law enforcement.

10. In May 2021, Javier Ambler’s law passed in the Texas Legislature and on May 26, 2021, Texas Governor Greg Abbott signed it into law.

11. Upon information and belief, Defendant Half Moon needed new agencies and new outlets for its police entertainment programming and sought out the Sheriff’s department after it had been precluded from filming by law in the State of Texas.

12. In June 2022, the Sheriff entered into a contract with Defendant Half Moon to

produce a television program which was then titled “Unt. Law Enforcement Project” and was later released as “Live PD.”

13. In entering into the contract, the Sheriff knew or should have known of the danger of incentivizing aggressive policing represented by television shows like Live PD and/or On Patrol: Live, but it nonetheless placed its financial interests over and above the rights and interests of those it was sworn to serve and to protect – people like Maeve Nordan.

14. In order to produce its television shows, Half Moon places cameras (and or producers and camera operators) in police vehicles for ride alongs in order to record their activities for broadcast.

15. In fact, and by contract, Half Moon and its production personnel are granted “permission to access the Sheriff’s offices, buildings, property, facilities and vehicles,” as well as the “right to film, videotape, photograph and record ... their actions, names, likenesses, appearances and voices and the situations they encounter and/or become involved in.”

16. Live PD is not actually “live”, and the various police departments that appear on it (including the Sheriff’s department) can selectively veto any content they do not wish to air.

17. Half Moon and its television show creates celebrities out of peace officers – or at least out of those who provide entertaining policing.

18. While the contract between the Sheriff and Half Moon provides that the Sheriff’s department – and not Half Moon – shall make all law enforcement actions and make them in accordance with the Sheriff’s department’s policies and procedures, Half Moon ultimately decides which police encounters to air, and which will find their way to the edit room floor.

19. Live PD and/or On Patrol: Live turns serious criminal justice matters into crass entertainment.

20. The Sheriff was at all times well-aware that Live PD and/or On Patrol: Live was an entertainment program.

21. Several of the Sheriff's deputies are regularly featured on Live PD and/or On Patrol: Live during the production of the show.

22. The Sheriff and his department promote its participation of Live PD and/or On Patrol: Live through social media.

23. The Sheriff and Half Moon partner in producing entertainment policing in Richland County.

24. Shows like Live PD and/or On Patrol: Live encourage officers to engage in dangerous, high-risk police tactics because it makes for more entertaining television.

25. For example, and upon information and belief, prior to the enactment of Javier's Law, use-of-force reports by the Williamson County Sheriff's Office nearly doubled from 43 in 2017, the year before Live PD began filming in Williamson County, to 82 in 2019, the first year of its television contract.

26. At all times relevant hereto, the Sheriff had and has a vehicle pursuit policy that allows a Deputy to initiate a vehicular pursuit when:

- a. The suspect exhibits the intention to avoid arrest by using a vehicle to flee apprehension for an alleged felony or misdemeanor that would normally require a full custody arrest.
 - b. The suspect operating the vehicle refuses to stop at the direction of the officer.
 - c. The suspect, if allowed to flee, would present a danger to human life, or cause serious injury.
27. Police chase sequences are a staple of Live PD and/or On Patrol: Live and are

considered entertaining.

28. On May 5, 2023, Maeve was lawfully operating her 2020 Honda along SC 32-1791 near the intersection with St. Andrews Road in Richland County at approximately 10:30 pm.

29. CJ was a front seat passenger in his mother's car. He was 16 years old at the time.

30. Unbeknownst to Maeve, some distance away but also on St. Andrews Road, Robshane Rogers ("Rogers") was operating a 2013 Volkswagen when he committed a minor traffic violation in the presence of a Sheriff's deputy who was filming for Live PD and/or On Patrol: Live.

31. Nothing about Rogers's traffic violation indicated that he had committed a felony or represented a danger to the public.

32. The Sheriff's Deputy was torn between the decision to treat the matter as a minor traffic offense or to create entertaining television.

33. A high-speed police chase ensued.

34. Rogers reached reported speeds in excess of 85 mph as he approached the intersection where Maeve Nordan was waiting at a traffic signal to turn onto to St. Andrews Road.

35. Rogers and the Sheriff's deputy dangerously passed other vehicles during the pursuit.

36. As Rogers approached the intersection of SC 32-1791 and St. Andrews Road with the Sheriff's deputy hot in pursuit, the traffic signal on St. Andrews Road turned red and Maeve Nordan's signal turned green.

37. As Maeve entered the intersection, she was unaware that Rogers was being pursued at a high rate of speed directly towards her.

38. As the Sheriff's deputy's patrol car gave chase with the cameras rolling, Rogers ran

through the red light at St. Andrews Road and SC 32-1791 and violently T-boned Maeve's car. Maeve's car then struck a second vehicle on its front driver's side. Her vehicle came to rest helpless in the middle of the intersection, and she had no opportunity to brace for impact.

39. Given the excitement of the moment, in producing the television show that followed, Half Moon cut back and forth between the action at the scene and television produced commentary.

40. Maeve was entrapped and severely injured in her vehicle.

41. CJ witnessed the accident and the injuries to his mother.

42. Rather than attend immediately to her needs, the Sheriff's deputy took the time to give on-scene interviews with Live PD and/or On Patrol: Live.

43. CJ removed his mother from the severely damaged vehicle by himself, as the Sheriff's deputy and Live PD crew were too preoccupied with filming their show. At one point in the show Maeve can be seen in the background lying on the ground severely injured as CJ cries for someone to help his mother.

44. Upon information and belief, in the year that Live PD began partnering with Williamson County in Texas (and before the passage of Javier's Law which ended police entertainment television in Texas), the number of police chases by the Williamson County Sheriff's Department increased 54%.

45. While the Sheriff's deputy had the right to veto airing Maeve's accident and injuries on On Patrol: Live, it chose to allow Maeve's tragedy to air – it made for great television.

46. Maeve Nordan has suffered and continues to suffer from life-altering injuries after the accident. Houston has lost the love and affection of his wife as he had enjoyed the same prior to these events and has been converted essentially into a care provider.

For a First Cause of Action
Negligence / Gross Negligence
Joint and Several Liability

47. The paragraphs enumerated above are incorporated herein as if realleged and restated in full verbatim.

48. At all times relevant hereto, the Defendants owed the Plaintiffs a duty to exercise reasonable care in both rendering police services for the citizens of Richland County and in the production of a television show documenting the same.

49. The Defendants, and each of them, breached their duties of care and otherwise acted jointly and severally in a negligent, grossly negligent, willful, wanton, and reckless manner in many particulars, including but not limited to the following:

- a. In violating the policies of procedures of the Sheriff as it relates to high-speed vehicle pursuits;
- b. In turning a simple traffic violation into a high-speed vehicle pursuit in order to create and produce entertaining television;
- c. In encouraging aggressive policing practices in order to produce entertaining television;
- d. In pursuing Robshane Rogers through the intersection of St. Andrews Road and SC 32-1791 at speeds in excess of 85 mph knowing that other vehicular traffic was likely to be encountered at the intersection;
- e. In failing to take any steps to secure the intersection of St. Andrews Road and SC 32-1791 prior to the arrival of the vehicular pursuit;
- f. In failing to warn Maeve of the dangerous vehicles that were driving towards her at reckless speeds;

- g. In rewarding the Sheriff and his deputies for aggressive policing through the allure of fame and celebrity at the cost of public safety; and
- h. In such other particulars as the evidence in the case may demonstrate.

50. As a direct result of the conduct of the Defendants acting jointly and severally, Maeve's vehicle was struck in the intersection of SC 32-1791 and St. Andrews Road by the vehicle that was being pursued by the Sheriff's deputy at speeds in excess of 85 mph. She suffered devastating and life-altering injuries for which she continues to seek treatment, to experience pain, to feel emotional distress and to be deprived of enjoyment of life as she experienced prior to her injuries. Likewise, Houston has had his life permanently altered as well. He has been deprived of the love, affection, companionship, services, and consortium of his wife as he enjoyed the same prior to these events. He has been forced to pick up the load for all the services that his wife once provided to their household and to become, in effect, her care provider.

51. Maeve is entitled to an award of damages for her losses, past, present and future, in a sum to be determined by a jury, as well as an award of punitive damages against Defendant Half Moon in a sum deemed sufficient by a jury to impress upon Half Moon the seriousness of its conduct and to deter Half Moon and others similarly situated from engaging in similar conduct.

52. Houston is separately entitled to an award of damages for his losses, past, present and future, in a sum to be determined by a jury, as well as an award of punitive damages against Defendant Half Moon in a sum deemed sufficient by a jury to impress upon Half Moon the seriousness of its conduct and to deter Half Moon and others similarly situated from engaging in similar conduct.

For a Second Cause of Action by Plaintiff CJ
By-Stander Liability

53. The paragraphs enumerated above are incorporated herein as if realleged and

restated in full verbatim.

54. The negligence of the Defendants as set forth herein caused serious physical injuries to Maeve Nordan.

55. CJ was in close proximity to his mother at the time of her injuries.

56. CJ witnessed the accident and was presently aware that his mother had suffered serious injuries.

57. CJ suffered, and continues to suffer, severe emotional distress that manifests itself by physical symptoms capable of objective diagnosis.

58. CJ is entitled to an award of damages for his losses, past, present and future, in a sum to be determined by a jury, as well as an award of punitive damages against Defendant Half Moon in a sum deemed sufficient by a jury to impress upon Half Moon the seriousness of its conduct and to deter Half Moon and others similarly situated from engaging in similar conduct.

WHEREFORE, Maeve is entitled to and prays for an award of damages for her losses, past, present and future, in a sum to be determined by a jury, as well as an award of punitive damages against Defendant Half Moon in a sum deemed sufficient by a jury to impress upon Half Moon the seriousness of its conduct and to deter Half Moon and others similarly situated from engaging in similar conduct, together with such additional relief as the Court deems just and proper. In addition, Houston is separately entitled to and prays for an award of damages for his losses, past, present and future, in a sum to be determined by a jury, as well as an award of punitive damages against Defendant Half Moon in a sum deemed sufficient by a jury to impress upon Half Moon the seriousness of its conduct and to deter Half Moon and others similarly situated from engaging in similar conduct, together with such additional relief as the Court deems just and proper. Finally, CJ is separately entitled to and prays for an award of damages for his losses, past,

present and future, in a sum to be determined by a jury, as well as an award of punitive damages against Defendant Half Moon in a sum deemed sufficient by a jury to impress upon Half Moon the seriousness of its conduct and to deter Half Moon and others similarly situated from engaging in similar conduct, together with such additional relief as the Court deems just and proper.

Lexington, South Carolina
May 14, 2024

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	Case No.: 2023-CP-40-06659
Ida Maeve Nordan, Randall Houston	)	
Nordan and Chip Eugene McCants, Jr., by	)	
and through his parent and natural guardian,	)	
Ida Maeve Nordan,	)	
	)	
Plaintiffs,	)	DEFENDANT HALF MOON
	)	PICTURES, LLC'S MOTION TO
vs.	)	DISMISS
	)	
Sheriff of Richland County in his official	)	
capacity, and Half Moon Pictures, LLC,	)	
	)	
Defendants.	)	
	)	

Pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, Defendant Half Moon Pictures, LLC ("Half Moon") moves to dismiss Plaintiffs' Amended Complaint. Half Moon previously moved to dismiss Plaintiffs' Summons and Complaint, and before that motion to dismiss could be heard or decided, Plaintiffs filed their Amended Complaint.¹ Half Moon now seeks dismissal of the Amended Complaint.

The grounds for this motion are as follows: (1) the Amended Complaint fails to allege any circumstances which could, as a matter of law, establish that Half Moon owes any legal duty to either of the Plaintiffs, or that Half Moon breached any duty owed; (2) the Amended Complaint fails to allege that any negligence attributable to Half Moon caused any Plaintiff death or serious physical injury; and (3) the First Amendment independently bars Plaintiffs' claims.

¹ Plaintiffs' Amended Complaint only corrected the identity of the co-defendant in response to the co-defendant's contention that Plaintiffs had not sued the correct party; therefore, Half Moon arguably does not need to renew its motion to dismiss. Nevertheless, Half Moon files this motion to dismiss, raising identical arguments asserted in its prior motion to dismiss, out of an abundance of caution.

WHEREFORE, for the reasons above that will be discussed in more detail in oral argument and in the Memorandum in Support of Defendant Half Moon's Motion to Dismiss, Half Moon respectfully moves this Court to dismiss Plaintiffs' Amended Complaint against Half Moon, with prejudice, and for other and further relief as the Court considers appropriate.

Respectfully submitted,

WYCHE, P.A.

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May 29, 2024

Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	Civil Action No.: 2023-CP-40-06659
Ida Maeve Nordan, Randall Houston	)	
Nordan and Chip Eugene McCants, Jr., by	)	
and through his parent and natural	)	
guardian, Ida Maeve Nordan,	)	
	)	MEMORANDUM IN SUPPORT OF
Plaintiffs,	)	DEFENDANT HALF MOON
	)	PICTURES LLC'S MOTION TO
vs.	)	DISMISS THE AMENDED
	)	COMPLAINT
Sheriff of Richland County in his official	)	
capacity, and Half Moon Pictures, LLC,	)	
	)	
Defendants.	)	

Defendant Half Moon Pictures LLC ("Half Moon") respectfully submits this Memorandum of Law in Support of its Motion to Dismiss the Plaintiffs' Amended Complaint ("FAC"), pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

INTRODUCTION

On May 5, 2023, Plaintiff Ida Maeve Nordan ("Ms. Nordan") drove her vehicle on a public street in Richland County with her son, Plaintiff Chip Eugene McCants, Jr. ("CJ"),¹ in the passenger seat. At approximately 10:30pm, Robshane Rogers committed a traffic violation in the presence of a Richland County Sheriff's Department ("RCSD") deputy. When the RCSD deputy attempted to make a traffic stop, Rogers sped away and a high-speed car chase ensued. After reaching speeds in excess of 85 miles per hour, the pursuit ended when Rogers ran a red traffic light and crashed into Ms. Nordan's vehicle at an intersection. Deputies quickly descended on the scene to place Rogers under arrest and provide medical care to Ms. Nordan and CJ. A film crew for the television program *On Patrol: Live* ("OPL"), produced by Half Moon, rode along with the

¹ This Motion collectively refers to Ms. Nordan, CJ, and Plaintiff Randall Houston Nordan, who is Ms. Nordan's husband, as the "Plaintiffs."

arresting officer the night of the incident and passively filmed the attempted stop, car chase, collision, and efforts to secure the scene, which was featured in an episode of the program that night. No Half Moon crewmember took part in or encouraged any of the efforts to stop Rogers' vehicle or the subsequent pursuit, crash, and aftermath.

In this lawsuit, the Plaintiffs bring claims for negligence and bystander liability against RCSD and Half Moon, seeking redress for injuries sustained following Rogers' collision with their vehicle. Plaintiffs' claims are centered on allegations that Defendants "turn[ed] a simple traffic violation into a high-speed vehicle pursuit in order to create and produce entertaining television;" "fail[ed] to take any steps to secure the intersection . . ." prior to the crash" or "warn Maeve of the dangerous vehicles that were driving toward her at reckless speeds;" and "reward[ed] RCSD and its deputies for aggressive policing through the allure of fame and celebrity at the cost of public safety." Both of the claims against Half Moon fail, for the following reasons:

First, courts consistently decline to impose a duty on the media to protect against intentional and independent conduct of a third party, and, as such, dismiss such negligence claims even when plaintiffs allege the media encouraged such activity. Dismissal is particularly warranted where, as here, constitutionally protected speech is at issue. As such, Half Moon owed no duty to Plaintiffs that could form the basis of a negligence claim. Plaintiffs' attempt to hold Half Moon liable for injuries a third-party criminal suspect fleeing police inflicted simply because cameras happened to be rolling lacks merit, would encourage interference in police activity (thereby putting officers and the news media in unnecessary danger), and would place an impossible burden on Half Moon's First Amendment rights.

Second, Plaintiff CJ's derivative claim for negligent infliction of emotional distress ("NIED", *i.e.*, "bystander liability") fails because it must be predicated on a viable underlying negligence claim. The FAC fails to allege a viable negligence claim against Half Moon, and as

such, it cannot support a claim for NIED or “bystander liability” against Half Moon.

Last, both claims against Half Moon must be dismissed because the First Amendment prohibits civil liability against media defendants when truthful constitutionally protected speech is at issue. Imposing tort liability on Half Moon for producing a program that chronicles the operation of a law enforcement agency in South Carolina and others across the United States would result in self-censorship, causing great harm by limiting the public’s knowledge of public affairs.

In sum, Half Moon is a television production company that films interactions between police and the public, and on the day in question, happened to film the pursuit of a fleeing suspect on a public street and the tragic aftermath of the chase for its telecast. Half Moon bears no responsibility for the criminal or tortious conduct of suspects fleeing the police that causes injury to third parties like the Plaintiffs. Because the FAC does not state an actionable claim for relief, the lawsuit should be dismissed in its entirety.

FACTUAL AND PROCEDURAL BACKGROUND

Half Moon is the producer of the real-life documentary series, *OPL*, which debuted in 2023. *OPL* follows the activities of law enforcement agencies across the country as their officers patrol their communities, respond to service calls, investigate criminal activity, and interact with the public. Half Moon’s production crews embed with these agencies, including RCSD, and engage in critical newsgathering that provides the public with an unvarnished, inside look at real-life policing. While the FAC makes allegations unrelated to Half Moon’s activities in Richland County or its filming of Rogers’ arrest, the core relevant allegations are as follows:

A. The Car Chase And Collision

This lawsuit concerns an incident that took place on the evening of May 5, 2023, when a RCSD deputy attempted to pull over Rogers’ vehicle after Rogers committed a traffic violation. FAC ¶ 30. After appearing to pull over, Rogers fled, leading to a high-speed pursuit. The deputy

pursued Rogers' for approximately a minute as Rogers' vehicle sped through several intersections reaching speeds "in excess of 85 mph." FAC ¶ 34. The RCSD deputy maintained contact with dispatch as he pursued the vehicle, when at about 10:30 pm, Rogers "ran through the red light at St. Andrews Road and SC 32-1791 and violently T-boned Maeve's car. Maeve's car then struck a second vehicle on its front driver's side." *Id.* ¶¶ 28, 38. The RCSD deputy in pursuit immediately stepped out of his vehicle in an effort to secure the scene and place Rogers under arrest. Within one minute of the crash, a second RCSD deputy who responded to the incident tended to Ms. Nordan and CJ, as the pursuing deputy completed the arrest of Rogers. *See* Exhibit 1 at 2:14. Rogers was charged with multiple offenses, including failure to stop for a blue light resulting in great bodily harm, reckless driving, driving with a suspended license, and other charges.²

On the evening of the incident, a crewmember from *OPL* was riding in the pursuing deputy's vehicle, and filmed the encounter from the attempted stop, to when Rogers first fled, to when deputies arrived on scene to tend to Ms. Nordan and CJ and place Rogers under arrest. No deputy spoke to or interacted with any *OPL* crewmember as these events unfolded. As the video footage makes clear,³ only after the scene was secure and the second RCSD officer was tending to Ms. Nordan and CJ did the pursuing deputy address the *OPL* crew to explain what had occurred.

² *See State of South Carolina v. Robshane Rogers*, Case Nos. 2023A4010900051, , 2023A4010900052, 2023A4010900053, 2023A4010900054, 2023A4010900055, 2023A4010900056, 2023A4010900057; <https://www.scsolicitor5.org/wp-content/uploads/2023/10/Nov2023Firsts-revised.pdf> (reflecting May 5, 2023 violation date for these cases). *See* SCRE 201 (court may take judicial notice of facts "not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned").

³ The portions of the May 5, 2023 episode of *OPL* depicting the incident, as it was telecast on Reelz, are attached as Exhibits 1, 2, and 3 to Half Moon's Motion to Dismiss. This footage is repeatedly referenced in the FAC; it is therefore incorporated by reference and may be considered by the Court in reviewing Half Moon's motion to dismiss. *See Brazell v. Windsor*, 384 S.C. 512, 516 (2009).

The encounter was televised live on *OPL* on May 5, 2023, on a delay.

The *OPL* crewmember was present in the deputy's vehicle pursuant to a June 10, 2022 Access Agreement ("Access Agreement" or "AA") between Half Moon and RCSD.⁴ The Access Agreement makes clear that the two entities operated independently and that the parties bore no responsibility for each other's actions, *i.e.*, that Half Moon and RCSD "do not by this Agreement intend to form an employment relationship or a partnership or a joint venture between them and in no event shall this Agreement be construed to constitute such an employment relationship, partnership or joint venture." AA at § 12. The Access Agreement further provides that "RCSD and RCSD Personnel shall at all times continue to independently conduct their operations and activities as they customarily operate, without regard to, or as a result of, the filming, recording and production of [*OPL*]." *Id.*; *see also id.* at § 3 ("RCSD Personnel shall conduct themselves pursuant to RCSD policies governing on and off duty conduct. RCSD Personnel shall not make any law enforcement decisions, or take any or not take law enforcement action due to the presence of Producer personnel in relation to the Series, and Producer shall be expressly prohibited from requesting RCSD Personnel make any law enforcement decisions, or take or not take, any law enforcement action due to Producer's presence or in relation to the Series.").

Half Moon and RCSD further agreed that they "are fully independent of one another and not collaborating in any capacity hereunder in connection with the Series or any law enforcement activities that occur while [Half Moon] is documenting the activities of RCSD or otherwise." AA at § 12. Consistent with this independent status, the Access Agreement expressly provides that Half Moon has ultimate editorial control over the content of each episode of *OPL*. *See id.* § 6 ("it

⁴ The FAC repeatedly incorporates allegations concerning the Access Agreement. *See* FAC ¶¶ 12-15, 18; *see also* fn 2. Thus, the Agreement is incorporated by reference into the FAC and may be considered on a dismissal motion; it is attached as Exhibit 4 to the Motion to Dismiss. *See Brazell*, 384 S.C. at 516.

is understood that [Half Moon] and any television network for which [Half Moon] is producing the series [] shall, in their sole discretion, make the final decision regarding the content and editorial decisions for the Series and each episode thereof.”⁵ Given the foregoing, Half Moon bore no responsibility for – and indeed, had no legal or practical control over – the actions of the officers who responded and assisted with the pursuit and arrest of Rogers.

B. This Lawsuit

Plaintiffs filed a Complaint in this action on December 14, 2023 against Half Moon and RCSD. Plaintiffs filed the FAC on May 14, 2024, substituting Defendant RCSD for Defendant Sheriff of Richland County in his official capacity. The FAC alleges two counts against both Defendants: a joint claim for negligence/gross negligence, and a claim for bystander liability on behalf of Plaintiff CJ. The FAC does not allege any *OPL* crewmember filming the incident played a role in the law enforcement pursuit of Rogers’ vehicle, the collision with Nordan, or Rogers’ arrest. Rather, Plaintiff alleges in wholly conclusory fashion that *OPL* “encourage[s] officers to engage in dangerous, high-risk police tactics because it makes for more entertaining television.” *Id.* ¶¶ 24, 49(c). And, although the video of the actual incident clearly shows otherwise,⁶ Plaintiff falsely alleges “[r]ather than attend immediately to [Ms. Nordan’s] needs, the Sheriff’s deputy took the time to give on-scene interviews . . . *On Patrol: Live.*” *Id.* ¶ 42.

LEGAL STANDARD

The Court should grant a Rule 12(b)(6) motion to dismiss if, after accepting all well-pleaded allegations in the complaint as true, the plaintiffs have failed to allege any set of facts in

⁵ The Access Agreement provides RCSD with a 48-hour window “to review and comment on any pre-recorded segments of the Series featuring RCSD Property or RCSD Personnel for the sole purpose of identifying any safety or security risks to RCSD (e.g., recognition of a confidential informant, undercover officer, how specific tactics are deployed).” AA § 6.

⁶ If allegations are contradicted by exhibits incorporated in the FAC, the exhibit, not the Plaintiffs’ interpretations or allegations, controls. *See Brazell*, 384 S.C. at 516.

support of their claims that entitles them to relief. *See* SCRCRCP Rule 12(b)(6) (motion to dismiss must be granted if plaintiff “fail[s] to state facts sufficient to constitute a cause of action”). In ruling on dismissal motions, courts rely “solely upon the allegations set forth in the complaint.” *Carolina Care Plan, Inc. v. United HealthCare Servs., Inc.*, 361 S.C. 544, 550 (2004). But trial courts may also “consider documents that are incorporated by reference in the complaint but not actually attached thereto” to “prevent[] a plaintiff from benefiting from his own oversight or from surviving a motion to dismiss by intentionally omitting documents upon which their claims are based.” *Brazell*, 384 S.C. at 516. The South Carolina Rules of Civil Procedure require strict fact pleading (SCRCRCP Rule 8(a)(2)), meaning a plaintiff cannot rest on unsupported inferences or legal conclusions to support her claims; rather, the plaintiff must allege facts that support those inferences or legal conclusions. *Paradis v. Charleston Cty. Sch. Dist.*, 424 S.C. 603, 613 (Ct. App. 2018) (requiring pleaded facts, not legal conclusions for claim to survive 12(b)(6) motion), *rev’d on other grounds*, 433 S.C. 562 (2021). While the Court should consider the pleaded facts in the light most favorable to the nonmoving party, *see Baird v. Charleston Cty.*, 333 S.C. 519 (1999), a court should not “write into the pleadings allegations and defenses that are not presented.” *Unisun Ins. v. Hawkins*, 342 S.C. 537, 541-42 (Ct. App. 2000). If the facts and the reasonable inferences therefrom do not support recovery, the court should grant the motion. *Baird*, 333 S.C. at 527.

DISCUSSION

I. THE NEGLIGENCE CLAIM AGAINST HALF MOON MUST BE DISMISSED

To prevail on their negligence claim, the Plaintiffs must prove that (1) Half Moon owed them a legal duty; (2) Half Moon breached that duty; and (3) the breach proximately caused the Plaintiffs’ alleged injuries. *Bailey v. Segars*, 346 S.C. 359, 366 (Ct. App. 2001). For each of the following independent reasons, Plaintiffs’ negligence claim against Half Moon must be dismissed.

A. Half Moon Owed No Legal Duty To Plaintiffs.

Plaintiffs cannot establish as a matter of law that Half Moon owed them any legal duty, and as such, their negligence claim must be dismissed. “In any negligence action, the threshold issue is whether the defendant owed a duty to the plaintiff.” *Bass v. Gopal, Inc.*, 395 S.C. 129, 134 (2011). The “existence of a legal duty of care owed by defendant to the plaintiff” is an “essential element” (*Doe v. Batson*, 345 S.C. 316, 322-323 (2001)) and “a question of law for the courts” (*Washington v. Lexington Cnty. Jail*, 337 S.C. 400, 405 (Ct. App. 1999)). Trial courts routinely address the existence or non-existence of a duty on a Rule 12(b)(6) motion to dismiss. *See, e.g., Rydde v. Morris*, 381 S.C. 643, 645 (2009). Negligence liability does not exist unless the parties have a relationship recognized by law as the foundation of a relevant duty of care, and so to assert a viable claim against Half Moon, Plaintiffs must properly allege a “statute, contract, relationship, status, property interest, or some other special circumstances” that creates the duty. *Cowbum v. Leventis*, 366 S.C. 20, 46 (Ct. App. 2005) (citation omitted). “Proof of negligence in the air, so to speak, will not do.” *Batson*, 345 S.C. at 323, and courts must not extend the “concept of duty in tort liability ... beyond reasonable limits.” *Huggins*, 355 S.C. at 333 (citing *Morris v. Mooney*, 288 S.C. 447 (1986)). Plaintiffs have not and cannot meet this standard.

Plaintiffs appear to claim that Half Moon owed them a duty of care to protect Plaintiffs from the conduct of third parties (*i.e.*, to intercede or mitigate the actions of Rogers, a fleeing criminal suspect, or the responding RCSD deputies). But “[u]nder South Carolina law, there is no general duty to control the conduct of another or to warn a third person or potential victim of danger.” *Faile v. S.C. Dep’t of Juv. Just.*, 350 S.C. 315, 334 (2002). As a result, in situations where a plaintiff’s injuries are caused by someone other than the defendant, South Carolina courts will impose a duty on the defendant only in limited circumstances, including: “1) where the defendant has a special relationship to the victim; 2) where the defendant has a special relationship to the injurer; 3) where the defendant voluntarily undertakes a duty; 4) where the defendant

negligently or intentionally creates the risk; and 5) where a statute imposes a duty on the defendant.” *Doe v. Wal-Mart Stores, Inc.*, 393 S.C. 240, 246-247 (2011). Plaintiffs appear to suggest that Half Moon owed them a duty of care because (1) Half Moon had a special relationship to the injurer (Rogers) via its Access Agreement with RCSD, and (2) Half Moon’s presence in the vehicle with the RCSD deputy negligently created a risk of the pursuit and crash by encouraging aggressive policing practices to produce entertaining television.⁷ Neither of these theories holds water, and if adopted, would impose an impermissible burden on all media entities that report on the actions of myriad third parties, including police officers.⁸ As such, Plaintiffs’ claims fail.

1. Half Moon Had No Special Relationship With Rogers

First, Half Moon has no relationship whatsoever to Rogers (the injurer), and Plaintiffs cannot impute Half Moon’s arms-length relationship with RCSD via the Access Agreement to Rogers. Under South Carolina law, “[t]he defendant may have a common law duty to warn potential victims under the ‘special relationship’ exception when the defendant ‘has the ability to monitor, supervise, and control an individual’s conduct’ and when ‘the individual has made a specific threat of harm directed at a specific individual.’” *Wal-Mart Stores*, 393 S.C. at 247 (citations omitted). Thus, South Carolina courts impose a legal duty to protect a plaintiff from injuries caused by third parties due to a “special relationship” in only rare and readily distinguishable circumstances. *See, e.g., Rayfield v. S.C. Dep’t of Corr.*, 297 S.C. 95, 109-10 (Ct.

⁷ There are no factual allegations – nor could there be – suggesting either that Half Moon has a special relationship with *Plaintiffs*, that Half Moon voluntarily undertook a duty, or that a statute imposes a duty upon Half Moon. To the extent Plaintiffs argue in opposition that a duty exists based on one of these grounds, the Court should disregard them.

⁸ Plaintiffs also appear to claim that Half Moon owed them a duty to exercise reasonable care in producing a television show documenting the rendering of police services for the citizens of Richland County. However, no such general duty of care exists as a matter of law, and Plaintiffs’ negligence claim fails outright because Half Moon owed no duty of care to the public at large or Plaintiffs on account of its production of *OPL*. *See, e.g., Stancik v. CNBC*, 420 F. Supp. 2d 800, 808 (N.D. Ohio 2006) (“Contrary to the generalized statements in [plaintiff’s] complaint, news broadcasters do not owe the general public a heightened duty of care”).

App. 1988) (Department of Corrections “arguably owed a duty of care to others to prevent foreseeable harm [a third-party] might do them” while third-party was in prison); *Bishop v. S.C. Dep’t of Mental Health*, 331 S.C. 79, 87 (1998) (Department of Mental Health had special relationship with patient in its custody, but only had “duty to warn” plaintiff if it “knew or should have known a specific threat was made by [the patient]”).

Here, Plaintiffs fail to allege any facts supporting the kind of special relationship that can impose a duty over the actions of third parties like Rogers. Indeed, the FAC does not allege Half Moon had *any* relationship with Rogers, let alone one based on trust or contract; nor was Rogers a member of a vulnerable group. And the Plaintiffs cannot bootstrap a “special relationship” between Rogers and Half Moon by virtue of Half Moon’s Access Agreement with the RCSD.

To the extent Plaintiffs allege that RCSD was the injurer, and Half Moon had a special relationship with RCSD by virtue of its Access Agreement, Plaintiffs’ claims fare no better. Half Moon’s relationship with RCSD was based on an arms-length agreement between two sophisticated entities that expressly provided each party was an independent actor with no responsibilities for the actions of the other. The text of the Access Agreement undermines the very idea that the two entities endeavored to have any type of special relationship; rather, it shows just the opposite. *See* AA § 12. And the law does not recognize this sort of arms-length relationship between Half Moon and RCSD as creating the type of “special relationship” that would impose any duty on Half Moon relevant to Plaintiff’s injuries.

In *Mitchell v. Big Fish Ent., LLC*, which is directly on point, a federal District Court rejected the argument that the production company associated with the police ride-along program *Live PD* had any legal duty that would warrant tort liability for filming and televising plaintiff’s arrest in which he was seriously injured not by a fleeing suspect, but by the actual arresting officers

with whom Big Fish was riding. 2022 WL 16841596 (W.D. Tex. Nov. 8, 2022).⁹ There, Mitchell alleged Big Fish and the sheriff's department "influenced each other's actions" notwithstanding an access agreement between the parties (much like the access agreement at issue here) requiring them to conduct their operations totally independent of each other. *Id.* at *2. The court dismissed the plaintiff's original and amended complaints, concluding that "Mitchell has identified no special relationship recognized under Texas law" because the plaintiff "has alleged only that Big Fish had the practical ability to *influence* WCSO's conduct, not that Big Fish had a right of *control* over WCSO." *Id.* (emphasis added).¹⁰ Just as in *Mitchell*, Half Moon had no legal right to control or direct the RCSD deputy's conduct or take any affirmative role in the pursuit of Rogers, much less the ability to influence *Rogers* who is the one that fled RCSD and collided with Plaintiffs' vehicle. Any rule requiring Half Moon to intervene would necessarily require documentarians and camera operators like Half Moon to impede on police business or shut down altogether. That cannot be the law, and the Court must not impose a duty on Half Moon under these circumstances.

2. Half Moon Did Not Negligently or Intentionally Create Any Risk

Second, and relatedly, Plaintiffs seem to argue that Half Moon negligently created a risk of the pursuit and crash simply by virtue of filming RCSD for public consumption, thereby "encouraging aggressive policing practices in order to produce entertaining television" and "rewarding RCSD and its deputies for aggressive policing through the allure of fame and celebrity at the cost of public safety." FAC ¶¶ 49(c), (g). In essence, Plaintiffs allege that Half Moon's

⁹ Big Fish Entertainment, LLC, the defendant in *Mitchell*, is the parent company of Half Moon Pictures, LLC.

¹⁰ *Cf. Davidson v. Time Warner, Inc.*, No. CIV. A. V-94-006, 1997 WL 405907, at *11-12 (S.D. Tex. Mar. 31, 1997) (declining to impose duty on those responsible for releasing violent music although "[t]here is no question that [one of Tupac Shakur's album] depicts violence, and a reasonable jury could find that the recording entreats others to act on Shakur's violent message[.]" to impose "a duty requiring Defendants to police their recordings would be enormously [sic] and would result in the sale of only the most bland, least controversial music.").

creation of a popular and entertaining television show about policing imposes a duty upon them to protect the public from third party actions. This is not the law.

Further, it ignores Half Moon's *actual* conduct as demonstrated in the footage and its lack of any legal authority as set forth in the Access Agreement, which expressly *negates* any suggestion that Half Moon's presence in the car filming RCSD deputies increased the risk of harm. *See* AA at § 3. Indeed, even if the Court accepts Plaintiff's allegations that the RCSD deputy on the scene acted negligently in his duties due to the presence of cameras – an allegation directly refuted by the footage of the incident – he would have done so of his own volition and in direct contravention of RCSD's agreement with Half Moon. Courts routinely dismiss analogous claims seeking to hold the media responsible for the criminal or wrongful actions of the third parties they are covering. These claims have been pursued unsuccessfully in a variety of settings and courts, and have been consistently rejected as imposing an impermissible burden on the media. This is true even where the media entity allegedly played a role in constructing or even encouraging a volatile environment that may have contributed to the alleged injuries that occurred.¹¹

The same principles apply here to foreclose the idea that Half Moon owed Plaintiffs a duty for any alleged injuries Rogers or any RCSD officer caused by virtue of their presence in the car with the RCSD officer and later telecast of *OPL*. Like many media entities that ride along with law enforcement, *OPL* engages in critical newsgathering and provides the public with an unvarnished, inside look at real-life policing. In doing so, it acts completely independent of the law enforcement agencies it covers, including RCSD and its officers. The law is clear that Rogers

¹¹ *See, e.g., Graves v. Warner Bros.*, 656 N.W.2d 195, 198 (Mich. Ct. App. 2002) (declining to impose legal duty on producers of a talk show to prevent injuries to a third party where it was alleged that the producers created the environment that drove one guest on the show to murder another guest days after filming); *see also Mitchell*, 2022 WL 16841596, at *3 (observing that allegations that presence of Big Fish's cameras could influence police officers' conduct without the ability to control the conduct was insufficient to impose a duty on Big Fish for officers' actions).

and the responding officers are responsible for their own actions, and that Half Moon did not owe a duty to the Plaintiffs to protect them from the allegedly injurious acts of third parties, even if, as Plaintiff alleges, certain officers engage in more aggressive policing when cameras are filming.¹²

The facts here – where Half Moon simply filmed police officers doing their jobs in the context of a documentary television show – are vastly distinguishable from cases in which courts have found that a defendant negligently or intentionally created a risk. *See, e.g., James v. Kelly Trucking Co.*, 377 S.C. 628, 631 (2008) (employer may be liable where “employer knew or should have known that its employment of a specific person created an undue risk of harm to the public” or where “the employer acted negligently in entrusting its employee with a tool that created an unreasonable risk of harm to the public.”). And where (like here), the plaintiff’s injuries are caused by a third party’s unforeseeable criminal conduct, generally alleging that the defendant acted with negligence is not sufficient. *See, e.g., Wal-Mart Stores*, 393 S.C. at 242, 247-48 (affirming dismissal of negligence claim against Wal-Mart for failure to report suspected physical abuse of a child, where photographs depicting abuse were allegedly developed by Wal-Mart’s photography department, because “Wal-Mart did not negligently or intentionally create the risk of the father’s sexual abuse”). In sum, Half Moon did not, by virtue of the presence of cameras in RCSD squad cars, create a risk that RCSD deputies would take negligent actions outside the scope of their duties, and it cannot be held to have a duty to prevent the plaintiff from suffering any injuries from Rogers or any of the RCSD responding officers.

B. There Was No Foreseeability of Any Injuries to Plaintiffs

South Carolina courts make clear that, “In the absence of a duty to prevent an injury, foreseeability of that injury is an insufficient basis on which to rest liability.” *Huggins v. Citibank, N.A.*, 355 S.C. 329, 333 (2003). And even “[w]here a duty of due care exists, a person is required

¹² The footage of the incident demonstrates the exact *opposite* of what Plaintiffs allege.

to consider only the foreseeable risks of his conduct or failure to act. If an injury is not foreseeable, he is not liable for that injury.” *Nelson v. Piggly Wiggly Cent., Inc.*, 390 S.C. 382, 392 (Ct. App. 2010) (citation and quotation marks omitted).

The FAC does not address foreseeability, nor does it allege how any conduct that caused the Plaintiffs’ injury was foreseeable to Half Moon. To the extent Plaintiffs’ argument is that Half Moon’s production of a television show chronicling police activity would make it foreseeable that Rogers would flee a routine traffic stop and lead to a police pursuit and car accident, Half Moon was not bound to foresee and owed no duty to prevent these alleged criminal acts. And other courts have repeatedly found media-related injuries unforeseeable in analogous negligence actions. *See, e.g., Davidson*, 1997 WL 405907 at *13 (dismissing negligence claim against distributor of Tupac Shakur rap song related to the murder of a police officer because “[t]he record indicates that Defendants could not reasonably foresee that distributing *2Pacalypse Now* would lead to violence. To be sure, Shakur’s music is violent and socially offensive [but t]his fact, by itself, does not make violence a foreseeable result of listening to *2Pacalypse Now*” and “[c]onsidering the murder of Officer Davidson was an irrational and illegal act, Defendants are not bound to foresee and plan against such conduct.”). Likewise, the Court’s inquiry can cease here: the absence of foreseeability provides an independent basis to dismiss the Plaintiffs’ negligence claim against Half Moon.

C. Half Moon Did Not Breach Any Duty to the Plaintiffs.

Nor can Plaintiffs demonstrate any breach of a legal duty, another necessary element required for any claim for negligence.¹³ As noted above, Plaintiffs seem to allege that Half Moon’s passive filming of police officers created a legal duty for those involved in the production of *OPL*.

¹³ The FAC also fails to allege Half Moon’s alleged breach was the proximate cause of any injuries to Plaintiffs. “Proximate cause requires proof of (1) causation in fact and (2) legal cause.” *McKnight v. S.C. Dep’t of Corr.*, 385 S.C. 380, 386 (Ct. App. 2009). Yet, the FAC fails to allege how any act or omission of Half Moon caused any damages Plaintiffs suffered or, as established above, how any alleged misconduct by RCSD officers or Rogers was foreseeable.

But Plaintiffs further claim that Half Moon’s filming of police conduct *also* constituted a breach of duty *and* was the cause of the Plaintiffs’ injuries. See FAC ¶ 49(c),(g). In other words, Plaintiffs’ theory would make any person who documents law enforcement strictly liable for negligence where an injury occurs. That is not and cannot be the law. In short, the Plaintiffs have not plausibly pled that any breach of an actual duty occurred.¹⁴

III. PLAINTIFF CJ’S BYSTANDER LIABILITY CLAIM MUST BE DISMISSED

Plaintiff CJ has also asserted a claim for “bystander liability” against Half Moon and RCSD. This claim arises from the tort of NIED, and “South Carolina caselaw recognizes negligent infliction of emotional distress in limited circumstances.” *Tegeler v. Collier*, 2023 WL 6460423, at *4 (S.C. Ct. App. Oct. 4, 2023). To survive dismissal, CJ must plausibly allege that Half Moon was negligent, and that the negligence attributable to Half Moon caused his mother to suffer death or serious physical injury. See, e.g., *Doe v. Greenville Cnty. Sch. Dist.*, 375 S.C. 63, 67-68 (2007). But the FAC fails to plausibly allege a negligence claim against Half Moon for the reasons discussed above, and Plaintiff CJ does not allege how any purported negligence by Half Moon specifically caused his or his mother’s alleged injuries. Thus, Plaintiff CJ’s NIED claim fails.

IV. THE FIRST AMENDMENT BARS THE CLAIMS AGAINST HALF MOON

Finally, the First Amendment to the United States Constitution independently bars each of the Plaintiffs’ claims against Half Moon. The First Amendment provides immunity from many civil actions when speech protected by the Constitution is at issue, and allowing the Plaintiffs’ claims against Half Moon to proceed would no doubt lead to self-censorship, which would

¹⁴ Plaintiffs’ claim for gross negligence – which “is the intentional conscious failure to do something which it is incumbent upon one to do or the doing of a thing intentionally that one ought not to do” and “[i]t is the failure to exercise slight care” (*Etheredge v. Richland Sch. Dist. One*, 341 S.C. 307, 310 (2000) (citations omitted) – must be dismissed as well. Aside from identifying “Negligence / Gross Negligence” as a joint cause of action, the Plaintiffs plead no allegations that would support a plausible negligence claim, much less a gross negligence claim.

“dampen the vigor and limit the variety of public debate.”¹⁵ It would also infringe on the media’s exclusive right over editorial decisions and would likewise violate the viewing public’s “right ... to receive suitable access to social, political, aesthetic, moral, and other ideas and experiences.” *Columbia Broad. Sys. v. Democratic Nat. Comm.*, 412 U.S. 94, 102 (1973). This “First Amendment analysis must be applied to civil suits [for] negligence” because “[t]he fear of damage awards ... may be markedly more inhibiting than the fear of prosecution under a criminal statute.” *Davidson*, 1997 WL 405907 at *15 (citation omitted).

Here, Plaintiffs ask this Court to create an environment where any television program depicting real law enforcement activities must cease filming any interactions with those suspected of crimes for fear of potential civil liability for independent actions taken by law enforcement in the interrogation or arrest of those suspects or of the criminal suspects themselves. This self-censorship is precisely the type of restraint on First Amendment rights the U.S. Supreme Court warned against when it prohibited the imposition of civil liability for non-defamatory publications. *See, e.g., N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 277 (1964). *See also Snyder v. Phelps*, 580 F.3d 206, 218 (4th Cir. 2009) (“Where, as here, the First Amendment is implicated by the assertion of tort claims arising from speech, we have the obligation to make an independent examination of the whole record in order to make sure that the judgment does not constitute a forbidden intrusion on the field of free expression.”) (citation and quotation marks omitted).

The chilling effect from subjecting production companies or television networks to negligence claims because of their programming choices would also result in overly sanitized productions and would harm awareness of public affairs and policing. Such a ruling would cause media entities to be wary of filming law enforcement’s day-to-day operations for fear that anyone

¹⁵ *Davidson*, 1997 WL 405907 at *15, 22 (citation and quotation marks omitted). *See also Olivia N. v. Nat’l Broad. Co.*, 126 Cal. App. 3d 488, 494 (Cal. Ct. App. 1981) (recognizing that “the chilling effect of permitting negligence actions for a television broadcast is obvious”).

involved in or implicated by a matter may seek to hold them liable for their true reporting and/or lawful reporting activities, thereby limiting public awareness and debate. That Half Moon's speech was in the form of unscripted television does not lessen the import of the First Amendment to the production of *OPL*.¹⁶ But even if the Court were to accept Plaintiff's narrow view of *OPL* as an "entertainment program," the U.S. Supreme Court has made clear that it is an irrelevant distinction for First Amendment purposes. *See Zacchini v. Scripps-Howard Broadcasting Co.*, 433 U.S. 562, 578 (1977) ("There is no doubt that entertainment, as well as news, enjoys First Amendment protection. It is also true that entertainment itself can be important news."). In sum, the claims against Half Moon are each independently barred by the First Amendment; this is yet another reason why both of the claims against Half Moon should be dismissed.

CONCLUSION

For all these reasons, Half Moon respectfully requests that claims asserted in the Plaintiffs' FAC against Half Moon be dismissed with prejudice.

Respectfully submitted,

WYCHE, P.A.

s/ Wallace K. Lightsey

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¹⁶ Indeed, Half Moon's unscripted chronicling of law enforcement activities is at the core of what the First Amendment was designed to protect. For example, in 2018, the Circuit Court ruled that *Live PD* – a television program that, like *OPL*, also chronicled law enforcement officers and agencies across the United States – was "a 'news' show within the parameters of both the New York and the South Carolina shield laws." *State v. Martin*, 2018 WL 1449179, at *3 (S.C. Cir. Mar. 21, 2018). *Cf. Brooks v. State*, No. 08-15-00208-CR, 2017 WL 6350260, at *10-*12 (Tex. App. Dec. 13, 2017) (affirming decision that the Texas Shield Law privilege for journalists applied to *The First 48* television program, which as discussed *supra*, chronicles the investigative work by homicide detectives and other law enforcement officials across the United States).

Of counsel:

Jeremy Chase (admitted *pro hac vice*)
Jesse Feitel (application for admission *pro hac vice*
forthcoming)

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Attorneys for Defendant Half Moon Pictures LLC

October 22, 2024

*Ida Maeve Nordan, Randall Houston Nordan and Chip Eugene McCants, Jr., by and through his
parent and natural guardian, Ida Maeve Nordan v. Sheriff of Richland County in his official
capacity, and Half Moon Pictures, LLC*
Case No. 2023-CP-40-06659

Defendant Half Moon Pictures, LLC's Memorandum in Support of Motion to Dismiss

EXHIBIT 1

Placeholder for Clip 1 from As-Aired May 5, 2023
Episode of On Patrol: Live

*Ida Maeve Nordan, Randall Houston Nordan and Chip Eugene McCants, Jr., by and through his
parent and natural guardian, Ida Maeve Nordan v. Sheriff of Richland County in his official
capacity, and Half Moon Pictures, LLC*
Case No. 2023-CP-40-06659

Defendant Half Moon Pictures, LLC's Memorandum in Support of Motion to Dismiss

EXHIBIT 2

Placeholder for Clip 2 from As-Aired May 5, 2023
Episode of On Patrol: Live

*Ida Maeve Nordan, Randall Houston Nordan and Chip Eugene McCants, Jr., by and through his
parent and natural guardian, Ida Maeve Nordan v. Sheriff of Richland County in his official
capacity, and Half Moon Pictures, LLC*
Case No. 2023-CP-40-06659

Defendant Half Moon Pictures, LLC's Memorandum in Support of Motion to Dismiss

EXHIBIT 3

Placeholder for Clip 3 from As-Aired May 5, 2023
Episode of *On Patrol: Live*

June 10, 2022

Richland County Sheriff's Department
5623 Two Notch Rd
Columbia, SC 29223
Attn: Sheriff Leon Lott

Re: "Unt. Law Enforcement Project" – Access Agreement

Ladies/Gentlemen:

This letter will confirm the agreement ("Agreement"), dated and with effect from June 10, 2022 (the "Effective Date"), between the Richland County Sheriff's Department ("RCSD") and Half Moon Pictures, LLC ("Producer") with respect to Producer's documentary television series currently entitled "Unt. Law Enforcement Project" (the "Series"):

1. Term. The term of this Agreement ("Term") is the period commencing on the Effective Date and continuing through and including, June 27, 2023 (the "Initial Contract Year"). The parties shall have the right to extend the Term until, June 27, 2024 by mutual agreement ("Extended Term"). Upon the expiration of the Extended Term, the Agreement shall automatically renew for successive one (1) year periods (each an "Additional Extended Term"), unless either Party gives written notice of such Party's intent to terminate the Agreement no less than forty-five (45) days prior to the start of any Additional Extended Term. The Term, the Extended Term, and any Additional Extended Term may collectively be referred to herein as the Term. Notwithstanding the foregoing or anything to the contrary herein, either Party may terminate this Agreement at any time during the Term upon forty-five (45) days written notice to the other Party.
2. Access. During the Term, and any Extended Term, RCSD grants to Producer and its production personnel permission to access RCSD's offices, buildings, property, facilities and vehicles utilized by and/or in connection with RCSD (including, but not limited to, stations or precincts [or the equivalent], jail facilities, offices, patrol cars or other vehicles) (collectively, "RCSD Property") in addition to permission to accompany RCSD officers, deputies, employees or other personnel (collectively "RCSD Personnel") during the course of their duties or otherwise, and the right to film, videotape, photograph and record (via audio, video or audio/video) (collectively "Recordings"), the RCSD Personnel, and their actions, names, likenesses, appearances, and voices and the situations they encounter and/or become involved in, as well as all or any part of the exterior and interior and contents of RCSD Property, including names, signs and identifying insignia of RCSD in connection with production, exploitation and exhibition of the Series, related series, or derivative works and the marketing, advertising, promotion and publicity thereof, inclusive of the right to use the Recordings throughout the Universe in perpetuity, in any and all media now known or hereafter devised. RCSD reserves the right to limit access to RCSD Property or RCSD Personnel as it deems necessary. RCSD further agrees that Producer shall be entitled to return to RCSD Property post-Term at a mutually acceptable date and time, if and as required in connection with the Series.
3. Conduct: RCSD Personnel shall conduct themselves pursuant to RCSD policies governing on and off duty conduct. RCSD Personnel shall not make any law enforcement decisions, or take or not take, any law enforcement action due to the presence of Producer personnel in relation to the Series, and Producer shall be expressly prohibited from requesting RCSD Personnel make any law enforcement decisions, or take or not take, any law enforcement action due to Producer's presence or in relation to the Series. RCSD Personnel and Producer personnel shall not become engaged in any personal relationships. RCSD shall not use their participation in the Series in a commercial manner, provided RCSD shall be permitted to mention RCSD's participation and appearance in the Series on RCSD's

websites and social media accounts in order to promote the department and fundraise for school groups and/or non-profit organizations, provided that such references occur after the earlier of: (i) the initial press release in connection with the Series mentioning RCSD, or (ii) the initial airing of the episode(s) of the Series in which RCSD appears, and further provided that RCSD does not mention the Series, any personnel engaged in connection therewith, Producer, or the Network in derogatory manner.

4. License. RCSD licenses to Producer and its successors, subsidiaries, licensees and assigns, the right to photograph, record, reproduce and otherwise use RCSD Property names, images, trademarks, service marks, tradenames, logos, copyrighted material and/or other RCSD-owned materials to which Producer is afforded access hereunder in and in connection with the development, production, exhibition, exploitation, and promotion of the Series, related series or derivative works, and the marketing, advertising, promotion, and publicity thereof and/or otherwise, throughout the Universe in perpetuity, in any and all media now known or hereafter devised.
5. Exclusivity. Until the expiration of the Term, Extended Term or Additional Extended Term (as applicable): (a) the rights of access and license granted by RCSD pursuant to paragraphs 2 and 3 above, respectively, shall be exclusive to Producer with respect to "Live" or "Almost Live" long-form programming produced for exhibition by means of television, the Internet and/or any other audio-visual media (whether now known or hereafter invented), excluding news programming and programming covering the activities of RCSD produced by or on behalf of RCSD for exhibition on RCSD's website or RCSD social media (collectively, "Permitted Programming"); and (b) RCSD shall not authorize anyone (other than Producer) to develop and/or produce programming of a similar format or concept that depicts the activities of RCSD in any audio-visual media, except for Permitted Programming. The parties acknowledge that RCSD has an agreement with Langley Productions ("Langley") in connection with the television show currently entitled ("COPS"). RCSD will make reasonable efforts to notify Producer when RCSD is notified by Langley that RCSD footage is scheduled to be aired on COPS (excluding any previously aired footage being shown on repeat broadcasts). RCSD will ensure that filming with Langley shall not occur simultaneously with Producer's filming in connection with the Series hereunder, and shall not otherwise conflict with Producer's intended production schedule or access as set forth above or otherwise prevent Producer from filming in connection with the Series. It is understood and agreed that any filming in connection with COPS shall not be deemed a breach of RCSD's exclusivity hereunder.
6. Safety / Security Review. Producer will provide RCSD with forty-eight (48) hours to review and comment on any pre-recorded segments of the Series featuring RCSD Property or RCSD Personnel for the sole purpose of identifying any safety or security risks to RCSD (e.g., recognition of a confidential informant, undercover officer, how specific tactics are deployed). If no comments are received by Producer following such forty-eight (48) hour period, the segments will be deemed reviewed by RCSD. For live segments, Producer shall provide a RCSD representative digital access to a live feed from the RCSD cameras in the field solely for the purpose of identifying such safety or security risks to RCSD. In both instances, RCSD shall have the limited and specific right to review the content solely for factual accuracy and security and/or safety risks to RCSD and RCSD Personnel, provided that it is understood that Producer and any television network for which Producer is producing the Series (the "Network") shall, in their sole discretion, make the final decision regarding the content and editorial decisions for the Series and each episode thereof.
7. Ownership. All film, videotape, still photographs and other visual and/or audio recordings or representations (e.g., studios sets or designs) of RCSD Property or RCSD Personnel created by or with the authorization of Producer are collectively referred to herein as the "Material". Producer shall be the sole and exclusive owner of the Material with the right for the full period of copyright, including all extensions and renewals thereof, and thereafter in perpetuity, throughout the universe, to use and re-use, an unlimited number of times, all or any part of the Material for the purpose of making and producing television programs and other works, and advertising, publicizing and

exploiting the same, by all means and in all media, whether now known or hereafter devised, and to authorize others so to do. Neither RCSD, nor any employee of RCSD, nor any other party now or hereafter having an interest in RCSD Property or RCSD Personnel, shall have any right of action against Producer or any other party arising out of any use of said Material. Neither the expiration of this Agreement in its normal course nor its sooner termination for any reason shall affect the ownership by Producer of the Material.

8. Material Retention: RCSD and Producer acknowledge that raw (e.g. unaired) footage of the Material ("Raw Footage") is generally not retained by Producer in the course of production of the Series for a period exceeding thirty (30) days. It is acknowledged Producer is a member of the news media and Material are being recorded for purposes of newsgathering in relation to the Series.
9. Release of Material: Any party (e.g. prosecutors, law enforcement agencies, defense counsel, plaintiff's counsel, etc.) may attempt to subpoena Material from the Series, and in the event the requested Material exists, all such requests shall be treated equally without regard to the status of the requesting party (e.g. a request by the defense counsel shall receive the same consideration as a request from a prosecutor's office). No representations or warranties are made hereunder that Material will be provided except if required by a final and binding court order from a court of competent jurisdiction. Under no circumstances should RCSD or its representatives construe this agreement as Producer serving as an extension of RCSD for the purpose of obtaining additional audio/visual evidence in any matter in which Producer is present.
10. Credit. RCSD acknowledges that any credits or other identification of RCSD that Producer may furnish in connection with the Series or otherwise shall be at Producer's sole discretion. Notwithstanding the foregoing, Producer agrees to accord RCSD an on-screen credit in substantially the form "Special Thanks to the Richland County Sheriff's Department" in accordance with the Network's then-current credit policies, for all Series episodes in which RCSD personnel and activities are depicted. Producer shall determine the size, position, manner of presentation and all other matters with respect to such credit in its sole discretion. No casual or inadvertent failure by Producer, nor any failure by any third party, to accord such credit shall be deemed a breach of this Agreement by Producer.
11. No Obligation to Proceed. RCSD acknowledges and agrees that Producer is not obligated to actually access RCSD Property or produce the Series or include the Material in the episode of the Series for which it was prepared or otherwise exercise any or all of Producer's rights hereunder.
12. No partnership. It is expressly understood and agreed that Producer's role in the Series is that of a neutral third-party documenting law enforcement activity. The parties do not by this Agreement intend to form an employment relationship or a partnership or joint venture between them and in no event shall this Agreement be construed to constitute such an employment relationship, partnership or joint venture. RCSD and RCSD Personnel shall at all times continue to independently conduct their operations and activities as they customarily operate, without regard to, or as a result of, the filming, recording and production of the Series. RCSD shall not make any requests to any party it encounters on behalf of Producer.

Producer and RCSD further acknowledge and agree that the parties are fully independent of one another and not collaborating in any capacity hereunder in connection with the Series or any law enforcement activities that occur while Producer is documenting the activities of RCSD or otherwise. In connection with the Series or as otherwise set forth hereunder, Producer shall not willfully participate in any joint activity with RCSD and Producer has not and will not render any services hereunder under the color of any statute, ordinance, regulation, custom or usage of any State or Territory, or under the authority of RCSD in any capacity, as governed by 42 U.S.C. § 1983 or

otherwise, and RCSD will not request Producer's participation in any joint activity or services, with or on behalf of, RCSD.

13. Insurance. Producer will obtain and keep in force during production of the Series with RCSD a policy of commercial general liability insurance naming RCSD as an additional insured entity in a minimum amount of \$1,000,000 and provide proof thereof to RCSD prior to the commencement of production.
14. Indemnification. Except as arising out of or in connection with RCSD's negligence or willful misconduct, Producer agrees to defend, indemnify and hold harmless RCSD from and against any and all third party liabilities, third party claims, costs, damages, losses, or judgments arising out of or in connection with the development, production, distribution, or other exploitation of the Series. RCSD agrees that Producer shall have the sole right to control the legal defense against any claims, demands or litigation, including the right to select counsel of its choice and to compromise or settle any such claims, demands or litigation.
15. Governing Law and Venue. This Agreement and any claim or dispute relating in any way to the activities under this Agreement, shall be governed by and construed in accordance with the substantive laws of the State of South Carolina, without regard to the conflict of law provisions thereof. Venue for any action or suit arising under or relative to this Agreement or brought to interpret or enforce this Agreement shall lie exclusively in the appropriate state or federal court situated in Richland County, South Carolina and the parties submit to the in personam jurisdiction thereof and waive any objections they may have as to jurisdiction or venue in any such courts.
16. Notice. Any notices or communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed delivered by one party to another party when personally delivered to them or placed in a depository under the control of the United States Postal Service and mailed by certified or registered mail, return receipt requested, postage prepaid, addressed to:

If to RCSD:

Richland County Sheriff's Department
5623 Two Notch Rd
Columbia, SC 29223
Attn: Sheriff Leon Lott

If to Producer:

Half Moon Pictures, LLC
c/o 101 Hudson St, 40th Floor
Jersey City, NJ 07302
Attention: Rocky Bronzino

With a courtesy copy to:

Del Shaw Moonves Tanaka Finkelstein Lezcano Bobb & Dang
2029 Century Park East, Suite 1750
Los Angeles, CA 90067
Attn: Half Moon Pictures

17. Miscellaneous. Each of the individuals signing this Agreement below represents that such individual is empowered to execute this Agreement on behalf of the party for which such individual is acting. Producer may assign its rights under this Agreement in whole or in part to any person, firm, or corporation related to the production, distribution

or exploitation of the Series. RCSD shall not be permitted to assign or delegate any of rights or obligations under this Agreement. Except if required by law, which may include public records laws or statutes, RCSD shall at all times keep the terms of this Agreement confidential. Notwithstanding the foregoing, although Producer believes this Agreement to be a Producer trade secret and confidential commercial information, compliance with any applicable public records statute shall not be deemed a violation of this Agreement. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument. Any executed counterpart sent by facsimile or transmitted electronically in Portable Document Format ("PDF") shall be treated as originals, fully binding and with full legal force and effect, and the parties waive any rights they may have to object to such treatment. In the event that any provision hereof shall be deemed invalid or unenforceable due to any law, said provision shall be modified to the minimum extent necessary to effect compliance with such law, and in any event such invalidity or unenforceability shall have no effect upon the remaining terms and condition hereof. This Agreement contains the entire understanding of the parties hereto relating to the subject matter herein, supersedes and replaces all prior understandings and agreements concerning such subject matter, whether written or oral, and cannot be modified except in writing signed by the parties.

If the foregoing complies with your understanding of our agreement, please so signify by countersigning this letter where indicated below.

Very truly yours,

HALF MOON PICTURES, LLC

By: 
Daniel Cesaro, President

ACKNOWLEDGED AND AGREED:

RICHLAND COUNTY SHERIFF'S DEPARTMENT

By:  6/27/2022

Its: 

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	Civil Action No.: 2023-CP-40-06659
Ida Maeve Nordan, Randall Houston	)	
Nordan and Chip Eugene McCants, Jr., by	)	
and through his parent and natural	)	
guardian, Ida Maeve Nordan,	)	
	)	SUPPLEMENTAL MEMORANDUM
Plaintiffs,	)	IN SUPPORT OF DEFENDANT HALF
	)	MOON PICTURES LLC'S MOTION
vs.	)	TO DISMISS THE AMENDED
	)	COMPLAINT
Sheriff of Richland County in his official	)	
capacity, and Half Moon Pictures, LLC,	)	
	)	
Defendants.	)	

Defendant Half Moon Pictures LLC (“Half Moon”) respectfully submits this Supplemental Memorandum of Law in Support of its Motion to Dismiss the Plaintiffs’ Amended Complaint pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure. The Court held a hearing on October 30, 2024, on Half Moon’s motion to dismiss, and asked for supplemental briefing. Half Moon submits this supplemental memorandum addressing Plaintiffs’ contention at oral argument that the basis of Half Moon’s purported duty here was that it somehow negligently or intentionally created the risk that a criminal suspect would flee police and crash into a third party during law enforcement’s pursuit of that suspect. Plaintiffs’ theory is contrary to the law and the Court must reject it out of hand.

“Under South Carolina law, there is no general duty to control the conduct of another or to warn a third person or potential victim of danger.” *Doe v. Wal-Mart Stores, Inc.*, 393 S.C. 240, 246, 711 S.E.2d 908, 911 (2011). While a limited exception to this general rule exists where a defendant negligently or intentionally created the risk of harm, that exception is narrowly drawn and covers specific factual situations not present here. Plaintiffs’ theory that Half Moon’s presence

in the RCSD Deputy's vehicle somehow created a risk that a criminal suspect would flee police, police would chase that suspect, and the suspect would crash into Plaintiffs' vehicle during that pursuit, if accepted, would dramatically expand the limited exception and would effectively swallow the general rule. Stated differently, Plaintiffs' theory of the case—essentially that “negligence [is] in the air”—is directly foreclosed by what the law actually says. *John Doe v. Batson*, 345 S.C. 316, 323, 548 S.E.2d 854, 857 (2001) (“Without a duty, there is no actionable negligence...’Proof of negligence in the air, so to speak, will not do.’”) (quoting *Palsgraf v. Long Island Railroad Co.*, 162 N.E. 99, 99 (N.Y. 1928)); *Est. of Parrott v. Sandpiper Indep. & Assisted Living-Delaware, LLC*, __ S.C. __, __, 904 S.E.2d 455, 462 (Ct. App. 2024) (“[A] person usually incurs no liability when he fails to take steps to protect others from harm not created by his own wrongful conduct.”).

The limited exception to the no duty rule upon which Plaintiffs rely dates to *Montgomery v. Nat'l Convoy & Trucking Co.*, 186 S.C. 167, 179, 195 S.E. 247, 252 (1938), where a trucking company owed a duty to other motorists when the company's truck became stuck on the side of the roadway. It was the trucking company's *own* conduct — having one of its trucks stuck along the roadway—that created the risk of harm to passing motorists that justified imposing a duty on the trucking company to warn those other drivers on the road. *Id.* (noting “[t]he defendant...after he found himself unable to move the truck and the trailer, because the wheels of the truck had stuck in the soft ground off the pavement, owed the duty to plaintiff”). *Montgomery* has been cited over a dozen times in South Carolina, and more recently, the South Carolina Supreme Court cited it when stating that a defendant owes a duty when he “negligently or intentionally creates the risk.” *Faile v. S.C. Dep't of Juvenile Justice*, 350 S.C. 315, 334, 566 S.E.2d 536, 546 (2002).

Faile also relied on the Restatement for the same proposition. *Id.* at 334 n.7, 566 S.E.2d

at 546 (citing Restatement (Second) of Torts §§ 321-22 (1965)). Section 321(1), titled “Duty to Act When *Prior* Conduct is Found to Be Dangerous” (emphasis added) provides: “If the actor does an act, and subsequently realizes or should realize that it has created an unreasonable risk of causing physical harm to another, he is under a duty to exercise reasonable care to prevent the risk from taking effect. Restat 2d of Torts, § 321. The illustrations to section 321 are revealing:

1. A is playing golf. He sees no one on or near a putting green and drives to it. While the ball is in the air, B, another player, suddenly appears from a bunker directly in the line of A's drive. A is under a duty to shout a warning to B.
2. A, reasonably believing his automobile to be in good order, lends it to B to use on the following day. The same night A's chauffeur tells him that the steering gear is in dangerously bad condition. A could readily telephone B and warn him of the defective steering gear but neglects to do so. B drives the car the following day, the steering gear breaks and the car gets out of control, causing a collision with the car of C in which B and C are hurt. A is subject to liability to B and C.
3. A, carefully driving his truck, skids on an icy road, and his truck comes to rest in a position across the highway where he is unable to move it. A fails to take any steps to warn approaching vehicles of the blocked highway. B, driving his automobile with reasonable care, does not see the truck, skids on the ice and collides with it, and is injured. A is subject to liability to B.

Id. Quite clearly, the focus is on the defendant’s *own* conduct and the illustrations demonstrate a temporal component as well.

Plaintiffs’ contention that Half Moon’s presence filming created the risk thus imposing a duty is equally meritless under section 322 of the Restatement, which states:

If the actor knows or has reason to know that by his conduct, whether tortious or innocent, he has caused such bodily harm to another as to make him helpless and in danger of further harm, the actor is under a duty to exercise reasonable care to prevent such further harm.

Restat 2d of Torts, § 322. Again, the illustrations are informative, as they involve defendants in a typical hit-and-run scenario where a party is left injured and then is subsequently injured by another party. *Id.* Because the defendant created the initial harm, only then did the defendant owe

a duty to prevent further harm.¹

Even under the most deferential reading of Plaintiffs' Amended Complaint, this case falls well outside those described in the Restatement. The facts here – where Half Moon simply filmed police officers doing their jobs in the context of a documentary television show – are vastly different from the examples referenced in the Restatement and from cases in which courts have found that a defendant negligently or intentionally created a risk.

Indeed, in *Edwards v. Lexington County Sheriff's Department*, 386 S.C. 285, 293, 688 S.E.2d 125, 130 (2010), our Supreme Court held a duty arose under the limited exception Plaintiffs seek here when the sheriff's department was "well aware of [the perpetrator's] unrelenting violent tendencies toward [the victim]." *Id.* There, a victim was attacked by her ex-boyfriend at a bond revocation hearing that occurred without any security present despite the sheriff's department's having specific knowledge of defendant's violent propensities. *Id.* at 288, 688 S.E.2d at 127. The victim had called the sheriff's department numerous times reporting the ex-boyfriend's violent threats, which had led to a no contact order being issued. *Id.* After violating that order, the sheriff's department arranged a bond revocation hearing without any security present and "strongly encouraged" the victim to attend. *Id.* While the Supreme Court determined the sheriff's

¹ There is no question that this Court must consider sections 321 and 322 of the Restatement, as South Carolina appellate courts have repeatedly looked to similar sections when analyzing the imposition of a legal duty owed to third parties. *See, e.g., Bishop v. S.C. Dep't of Mental Health*, 331 S.C. 79, 87, 502 S.E.2d 78, 82 (1998) (citing to sections 315-320 of the Restatement (Second) of Torts in analyzing whether a duty arises due to a special relationship); *Rogers v. S.C. Dep't of Parole & Cmty. Corr.*, 320 S.C. 253, 256, 464 S.E.2d 330, 332 (1995) (citing Restatement (Second) of Torts §§ 314, 315, and 319 when determining whether a duty to warn a potential victim of a person's dangerous conduct when a party "has the ability to monitor, supervise, and control an [that person's] conduct"); *Est. of Parrott v. Sandpiper Indep. & Assisted Living-Delaware, LLC*, ___ S.C. ___, ___, 904 S.E.2d 455, 462 (Ct. App. 2024) (citing Restatement (Second) of Torts § 323 for determining whether a duty arises when one voluntarily undertakes a duty); *Doe v. The Citadel*, 421 S.C. 140, 147, 805 S.E.2d 578, 582 (Ct. App. 2017) ("Under South Carolina law, the Restatement of Torts establishes the recognition of a voluntarily assumed duty.").

department created a risk of harm that justified imposing a duty, it expressly limited its decision to the “unique facts of this case,” particularly due to the sheriff’s department’s knowledge of the perpetrator’s violent tendencies toward the victim. *Id.* at 293-94, 688 S.E.2d at 130.

Conversely, Half Moon’s filming of law enforcement officers attempting to pull over a fleeing suspect is in stark contrast to the “unique facts” that supported a duty in *Edwards*. Plaintiffs’ theory ignores that the police are wholly independent actors from Half Moon who do not answer to Half Moon and are responsible for their own actions. It also ignores that, by definition, Half Moon’s filming had no impact on Robshane Rogers’ decision to flee a routine police stop or his collision into Ms. Nordan’s vehicle. Instead of identifying a specific risk as in the *Montgomery* or *Edwards* cases, Plaintiffs would impose a duty on Half Moon (and anyone filming police for public consumption) to warn every motorist on the road of the unforeseeable and unknowable future actions of the police *and* fleeing criminal suspects. Imposing such a duty here would constitute an extraordinary change in the law and would result in a chilling effect on all ride-along television programs, and in turn, cut off an important source of information for the public about the workings of local police forces. The Court must not permit Plaintiffs to shoehorn Half Moon’s filming of a television show into this narrow exception.²

In sum, both the case law and the Restatement make clear that Half Moon did not, by virtue of the presence of cameras in RCSD squad cars, create a risk that RCSD deputies would take negligent actions outside the scope of their duties, and Half Moon cannot be held to have a duty to prevent the plaintiffs from suffering any injuries from a fleeing criminal suspect or any of the

² As noted at argument, Plaintiffs’ theory would also impose per se liability on Half Moon merely for filming the police in the line of duty. Indeed, Plaintiffs posit that a duty must be imposed on Half Moon because it films a popular television show; Half Moon breached that duty by filming a popular television show, and Half Moon caused Plaintiffs’ injuries by filming a popular television show. This is not the law.

RCSD responding officers.³

CONCLUSION

Because the issue before the Court is purely a matter of law, and for all the reasons set forth in this memorandum and in Half Moon's initial memorandum in support of its motion to dismiss, Half Moon respectfully requests that the claims asserted in Plaintiffs' Amended Complaint against Half Moon be dismissed with prejudice.

Respectfully submitted,

WYCHE, P.A.

s/Wallace K. Lightsey

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[SIGNATURE CONTINUES ON FOLLOWING PAGE]

³ Half Moon objects to the inclusion of the licensing agreement between Half Moon and the Richland County Sheriff's Department. Unlike the Access Agreement, which the Amended Complaint repeatedly addresses (See FAC ¶¶ 12- 15, 18), Plaintiffs did not raise any allegations concerning the licensing agreement in their Amended Complaint. Further, while the Court permitted supplemental briefing, this should not be read to permit evidence that is inappropriate at the Rule 12(b)(6) stage. Therefore, consideration of the licensing agreement is improper under Rule 12(b)(6). *See also Martin v. Companion Healthcare Corp.*, 357 S.C. 570, 574, 593 S.E.2d 624, 627 (Ct. App. 2004) ("When a court is considering a motion to dismiss and matters outside the pleadings are presented to and not excluded by the court, 'the motion shall be treated as one for summary judgment.'"). Even if the court considers the licensing agreement between Half Moon and RCSD, (1) Plaintiffs grossly mischaracterize its contents and import, and (2) it has no bearing on whether Half Moon owed Plaintiffs a duty of care or whether their injuries were foreseeable.

Of counsel:

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November 19, 2024

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	CIVIL ACTION NO.: 2023-CP-40-06659
	)	
Ida Maeve Nordan, Randall Houston	)	
Nordan and Chip Eugene McCants, Jr.,	)	
by and through his parent and natural	)	
guardian, Ida Maeve Nordan,	)	
	)	
Plaintiffs,	)	
	)	PLAINTIFF'S MOTION TO
vs.	)	RECONSIDER
	)	(Rule 59 (e), SCRCP)
Sheriff of Richland County in his official	)	
capacity, and Half Moon Pictures, LLC,	)	
	)	
Defendants.	)	

YOU WILL PLEASE TAKE NOTICE that Plaintiffs Ida Maeve Nordan, Randall Houston Nordan and Chip Eugene McCants, Jr., by and through his parent and natural guardian, Ida Maeve Nordan, hereby move before the Presiding Judge for the Fifth Judicial Circuit for reconsideration under Rule 59(e) of the South Carolina Rules of Civil Procedure of the Order of Judge Paul M. Burch, dated December 18, 2024 ("Order") granting Defendant Half Moon's motion to dismiss with prejudice. Plaintiff further makes this Motion for Reconsideration to preserve the issues set forth below for appeal in the event this motion is not granted. This motion is based upon the following grounds, as well as upon such additional evidence, argument and authority as may be presented at the time of hearing:

1. Rather than accepting as true the well-pleaded allegations that Defendant Half Moon Pictures, LLC negligently created the risk of harm that befell the Plaintiffs by encouraging aggressive policing practices to produce entertaining television, the Court incorrectly found as a matter of law that Half Moon did not create the risk because it merely "passively filmed police officers doing their jobs." Order, p. 6. The Complaint

clearly sets forth many factual allegations in support of the contention that it is the presence of the cameras and the allure of fame and money that create the risk, and correspondingly, create the duty that Half Moon owed to the Plaintiffs. The Court's finding that Half Moon was "passive" is both contrary to the well-pleaded allegations of the Complaint and irrelevant as to the creation of the risk and the duty.

Charleston, South Carolina
December 20, 2024

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1 STATE OF SOUTH CAROLINA) IN THE SOUTH CAROLINA CIRCUIT COURT 5
2 COUNTY OF RICHLAND) 2023-CP-40-06659
3
4 Ida Maeve Nordan, Randall Houston Nordan)
5 and Chip Eugene McCants, Jr., by and)
6 through his parent and natural guardian,))
7 Ida Maeve Nordan)
8 Plaintiff,)
9 Versus)
10 Richland County Sheriff's Department)
11 and Half Moon Pictures, LLC)
12 Defendant.)
13
14 H E A R I N G
15
16 DATE: October 30, 2024
17
18 LOCATION: South Carolina Circuit Court 5
19
20 JUDGE: Paul M. Burch
21
22 TRANSCRIBED BY: ERIN REILLY
23
24
25

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EXHIBITS

(None marked)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH IS
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 PROCEEDINGS

2 THE COURT: Okay. Let's see what we got, 15, 16, 17
3 are all concerning Ida Nordan. Plaintiff versus the Sheriff of
4 Richland County. Do we have everybody on board that we need?

5 MR. CRITZER: Your Honor, Brian Critzer on behalf the
6 Defendant, Half Moon Pictures. The first one is the motion to
7 withdraw as counsel. The actual counsel is a separate law firm
8 that filed that motion. They're not present but basically, we
9 had a number of lawyers representing Half Moon and one firm has
10 moved to withdraw. So, I don't want to represent, you know,
11 that that's my firm it's not but that's the basis of that
12 motion.

13 THE COURT: And we don't have them on board?

14 MR. CRITZER: Yeah, I don't see them listed.
15 Candidly, there hasn't been contact since this motion was filed
16 since they got out of the case and I apologize for not reaching
17 out to get them on board.

18 THE COURT: Does anybody have any objections to them?

19 MR. RICHTER: Your Honor, this is Ronnie Richter. We
20 represent the Plaintiff in this action. We have no objection.

21 MR. GARFIELD: And judge, good afternoon. Robbie
22 Garfield on behalf of the sheriff lot we also don't object.

23 MR. CHASE: And Your Honor, I also represent Half
24 Moon and obviously I agree with Mr. Critzer no objection.

1 THE COURT: I don't -- if y'all don't have any
2 objection to it whatever order we may do out of this go ahead
3 and take care of him I'll sign off on that part of it.

4 MR. CRITZER: Okay. Thank you. And then I failed to
5 introduce my colleague, Jeremy Chase. He's been admitted Pro
6 VJ [phonetic] and he'll be ordered or he'll be arguing the next
7 motion, motion to dismiss if we want to turn to that now.

8 MR. CHASE: Good afternoon, Your Honor. Just to
9 begin, Your Honor. I -- my name's Jeremy Chase. I'm from the
10 law firm Davis Wright Tremaine and I also represent Half Moon
11 Pictures

12 THE COURT: Right away.

13 MR. CHASE: Thank you, Your Honor. So, in this case,
14 Your Honor, the Plaintiffs bring negligence claims against Half
15 Moon and Richland County. After a suspect fleeing a Richland
16 County Sheriff's deputy crashed his vehicle into the
17 Plaintiff's car. Half Moon has been sued because one of its
18 videographers was riding along with the pursuing deputy and
19 filmed what occurred. Plaintiffs claim that Half Moon's
20 passive filming of this encounter somehow makes it liable for
21 their injuries.

22 These claims, however, fail for multiple reasons but most
23 notably because Half-Moon owed no legal duty to the Plaintiffs.
24 Now there's no dispute, Your Honor, that the Plaintiff was
25 injured by the fleeing suspect, Rob Shane Rogers vehicle

1 hitting Ms. Nordan and her son's vehicle. Therefore, the only
2 conceivable basis for Half Moon's asserted duty is one grounded
3 in a duty to protect or warn the Plaintiff and others from the
4 actions of third parties.

5 In this case, it would be either the criminal suspect
6 fleeing the police or the actions of the police officer in
7 pursuing that suspect. But under the Doby Walmart Stores case
8 from 2011 from the South Carolina Supreme Court, there's no
9 general duty to control the conduct of another or to warn a
10 third person or potential victim of danger. Now, reading the
11 complaint charitably, Plaintiff seemed to be asserting one of
12 two limited exceptions to that rule.

13 Either that, Half Moon had a special relationship with the
14 Richland County Sheriff's Department by virtue of its access
15 agreement, or two that Half Moon negligently, or intentionally
16 created the risk of the crash somehow and neither theory holds
17 water here. So, let's assume for the moment that the Court
18 deems Richland County to be the injurer here. Half Moon did
19 not have a special relationship with the Richland County
20 Sheriff's Department via their access agreement.

21 Initially, a special relationship only exists when
22 the Defendant has the ability to monitor, supervise, and
23 control an individual's conduct. And when the individual has
24 made a specific threat of harm directed at that specific
25 individual who was injured. Now, I don't think it takes a huge

1 leap to get the fact that a television producer does not have
2 the ability to control the conduct of law enforcement
3 personnel. And further, the Richland County Sheriff's
4 Department did not make any specific threat of harm toward the
5 Plaintiffs nor would they ever. So, this exception just
6 plainly doesn't apply. And frankly, Your Honor, when you look
7 at the access agreement itself, between Half Moon and Richland
8 County, which was attached to our motion it was clear that it
9 was an arm's length agreement setting forth the terms, by which
10 Half-Moon could film the deputies in their line of work.

11 Importantly, it provided that each entity, Half Moon
12 and the Richland County Sheriff's Department operated
13 independently of one another. That no partnership or joint
14 venture was being formed and, it not only provided that neither
15 bore responsibility for each other's actions but, that they
16 were prohibited from letting the presence of the other
17 influence their actions. Now notwithstanding this clear
18 division between Half Moon and Richland County, Plaintiffs
19 appear to be arguing that Half Moon had a duty by virtue of
20 this agreement to somehow intervene.

21 Now, in the Mitchell v. Big Fish case, Your Honor,
22 which was at -- in the -- a district court out of Texas, the
23 Plaintiff made a very similar argument there. There the
24 Plaintiff, a suspect who was trying to get away from police was
25 injured during his apprehension by the police officers and sued

1 the producers of the Ride Along program Live PD claiming that
2 the producers were negligent and had a duty to protect the
3 fleeing suspect because the producers and police "influenced"
4 each other's actions. That the Court said was not enough,
5 there must be a right of control, which was not present there
6 and is not present here. And this case is even one step
7 further removed as it wasn't even the police that directly
8 injured Ms. Nordan. It was a third-party criminal suspect over
9 whom Half Moon clearly had no ability to control.

10 So, clearly the special relationship exception
11 doesn't apply, Your Honor. Now, with respect to the idea that
12 Half Moon, you know, negligently or intentionally created some
13 risk of harm, that would trigger a duty to warn that too simply
14 just doesn't apply. That exception requires allegations that
15 the Defendant negligently or intentionally created the risk of
16 the accident. Now, the seminal case on that, is Montgomery v.
17 National Convoy and Trucking Company from the South Carolina
18 Supreme Court. It's 186SC167 from 1938.

19 Now, in that case, Your Honor, we're stop way due to
20 weather conditions, and they failed to warn approaching drivers
21 with flares and, you know, appropriate warnings. And there the
22 failure to warn a third party of this specific risk was that
23 was created by the Defendant, created a duty to warn third
24 parties to the danger. And, of course, a third party drove
25 their car and hit the back of the truck and was injured.

1 That's not remotely what happened here, Your Honor. All that's
2 alleged is that Half Moon was filming for its popular
3 television show.

4 There's no allegation, nor could there, be that Half
5 Moon did anything to increase the risk, that Rob Shane Rogers
6 would flee the police. And even if the Court credits the idea
7 that the arresting officer was somehow influenced by the
8 presence of the cameras and chose to pursue because the cameras
9 were rolling, it would've been directly contrary to the access
10 agreement with Big Fish. Section 3 of the access agreement
11 makes it clear that Richland County personnel are prohibited
12 from making any law enforcement decisions or to take or not
13 take any law enforcement action due to the producer's presence
14 or in relation to the series.

15 So, you know, a negligent party doesn't contract in
16 an effort to prevent the very condition that they're accused of
17 creating. So, a few other points, Your Honor, that I just want
18 to point out, just from a logical perspective, Your Honor.
19 Imposing a duty on Half Moon to protect third parties from
20 actions of fleeing suspects in these circumstances would result
21 in two things. One of two things -- either it would force
22 video cameramen to interfere in legitimate police business,
23 something that I don't need to explain to the Court would be a
24 bad result. Or two, it would force entertainment companies
25 like big -- like Half Moon to shut down all operations, thus

1 depriving the public of important news gathering and insight
2 into the operations of local police departments.

3 Now, a second important thing I want to note for,
4 Your Honor, is that the Plaintiffs in essence are seeking to
5 impose strict liability on Half Moon merely for having cameras
6 rolling when an injury occurs. They say that filming of
7 officers for a successful TV show triggered a legal duty for
8 Half Moon to protect the general public, but they also say that
9 the filming of officers for a successful TV show breached that
10 duty.

11 And then they then say, that the filming of officers
12 for a successful TV show also caused Plaintiff's injuries. So,
13 a rule that would impose per se liability on anyone who films a
14 ride along with police where an injury occurs, cannot be the
15 law. And, Your Honor, last, I would just point out that courts
16 routinely decide the question of the existence of a legal duty
17 on a 12B6 motion. And, you know, this is a question of law
18 discovery here will not change anything and in any case, we've
19 already provided Plaintiffs with significant discovery. So,
20 I'm happy to answer any question that, Your Honor, has but
21 otherwise I think that sums up our argument.

22 MR. RICHTER: May it please the Court, Your Honor,
23 Ronnie Richter, again, for the Plaintiff. And obviously we're
24 in a 12B6 setting. We own the facts as pled today. We own
25 every iteration of the facts, every claim that could possibly

1 arise out of the facts. And in reading the Defendant's
2 memorandum in support, I'm always bothered by this language
3 when I see it in a memo in support of a Motion to Dismiss.

4 Plaintiffs appear to claim, that Half Moon owed them
5 a duty of care to protect the Plaintiffs from the public from
6 the conduct of third parties i.e. to intercede or to mitigate
7 the actions of a fleeing criminal suspect. Your Honor, we
8 don't have to speculate as to what the Plaintiffs appear to
9 claim. We need only make reference to the complaint itself,
10 which clearly sets forth a cause of action for negligence in
11 which we contend that the Defendants in the production of their
12 show.

13 I -- Your Honor, I don't care if they're shooting
14 commercials on the corner, it simply says that in the
15 production of their show they owed a duty of care including
16 specifically in this circumstance. The duty not to encourage
17 aggressive policing practices just for the sake of entertaining
18 television, or the practice of rewarding police departments or
19 police through the allure of fame or money of -- or celebrity
20 at the cost of public safety.

21 And Your Honor, there is a lot of history here. There was
22 this television show it's called On Patrol, there was a
23 television show called Live PD, which is the same company and
24 the same producers and Mr. Chase told you about the Mitchell
25 case. I want to tell you about that case as well. The

1 Mitchell versus Big Fish, so in Texas. There was a guy named
2 Javier Ambler, right?

3 And Mr. Ambler was killed during a filming of Live PD
4 in March of 2019. And what happened in that case is, for the
5 sake of entertainment Mr. Ambler was pulled to the side of the
6 road where he was stunned gun to death. At least that's the
7 allegations of that case. Fast forward to June of 2019, same
8 television show. Making good entertaining content they engaged
9 in a chase with Mr. Ramsey Mitchell.

10 At the end of the chase for the benefit of the
11 television show, he's tackled tased, he's choke hold, he's
12 assaulted. And immediately after those events, he's asked by
13 the very officers who perpetrated those offenses to sign a
14 release for the benefit of Big Fish so that they could air that
15 content on TV. Well, he doesn't sign the release, but they air
16 it anyway.

17 And in the State of Texas these matters were such an
18 outrage that yes, Mr. Mitchell, filed a civil action against
19 Big Fish and I'll get to that decision. But the legislature of
20 the State of Texas decided it is time to intervene. And in May
21 of '21, they passed something called Javier's Law that says May
22 26th, 2021, any law enforcement department that employs peace
23 officers may not authorize a television crew to film police
24 officers while acting in the line of duty for the purpose of
25 creating reality TV shows. This is set forth in great detail

1 in our pleading as is the statistical data that that was the
2 policy behind that law. And the statistical data showed, an
3 increase in aggressive police tactics in the presence of
4 television productions like the one that we have now in South
5 Carolina. So, what's the answer when you're knocked out of the
6 State of Texas?

7 Well, that was May 26th, 2021. One of the documents
8 that counsel filed with the Court for consideration was the
9 contract with the Richland County Sheriff's Department in June
10 of 2022. So now we need to replace the content that we've been
11 knocked out of in the state of Texas. So, where better to come
12 than to the great State of South Carolina? And what would be
13 suggested to you about this contract is it proves; it proves
14 that we cannot control the conduct of the Sheriff's Department
15 and therefore we cannot be liable for what happens.

16 Your Honor, I find that preposterous, that you and I
17 could sign a piece of paper that says no matter what we say
18 we're going to do between us what we say between us is going to
19 bar our court liability to third parties regardless of our
20 conduct. That is the proposition that's before you as it
21 relates to this document and curiously enough in the document,
22 one of the key provisions is Paragraph 13 that requires not
23 only that the production company maintain at least a million
24 dollars of insurance, but the original county Sheriff's
25 department is named as an insured party on that policy. And

1 so, if there's no control and there's no liability, why do we
2 need the insurance that literally names Richland County
3 Sheriff's Department as an insured party. Going back to this
4 legal proposition that -- well, let me finish with Mitchell
5 versus Big Fish.

6 Yes, they got a dismissal of a case in the State of
7 Texas. It's a district court opinion from the State of Texas
8 that says that it's decided under Texas law, it's of no
9 presidential value whatsoever. But interestingly there is a
10 discussion in the Texas case that has some overlap with the law
11 in South Carolina.

12 And what's different in Texas from the Doe case in South
13 Carolina is that when they're talking about duties to third
14 parties and duties of control there was not a provision in
15 Texas like there is in South Carolina that says the following,
16 Your Honor, and this is from the Doe case that the moving party
17 cite themselves. South Carolina courts will impose a duty on a
18 Defendant only in limited circumstances, one of which is where
19 the Defendant negligently or intentionally creates the risk.
20 There is no similar provision in the case law that cited in
21 Texas.

22 And our complaint contends that that's exactly what
23 you did. You negligently or intentionally created this risk,
24 and it is a misstatement of the facts to say that a fleeing
25 felon or that the criminal caused the accident in this case.

1 What the complaint says, which is true today, is that what
2 caused the accident, the criminal was not even in the accident,
3 right?

4 The chase took place in violation of Richland County
5 policy and procedure because what should have been a routine
6 traffic offense turned into a high-speed chase. The end of
7 which was our client entering into an intersection in which the
8 fleeing vehicle strikes our client, right. So, what caused the
9 accident? It's not the fleeing criminal, it's the fact that the
10 chase is taking place at all. And Your Honor, if you and I are
11 in the car together and you're speeding recklessly and I'm in a
12 seat beside you saying go, go, go.

13 I am jointly liable with you for contributing to
14 that. And they said, "Well, we didn't say anything, we don't
15 even have the right to control them." No, you are ostensibly
16 telling them go, go, go. Because the only way they get on
17 television and the only way they get paid is if they produce
18 content that's entertaining enough for the production company
19 to pick it up and air it. And I know that's true because while
20 Mr. Chase provided the Court with a copy of the access
21 agreement what was not provided to the Court was a separate
22 contract, I'll call it a pocket contract for the purposes of
23 this hearing but a separate agreement called a license fee
24 agreement.

25 And it is that agreement that explains how does

1 Richland County get paid and it's crystal clear that you only
2 get paid if you're seen on the show and logically, you're only
3 going to be seen on the show if you're producing the kind of
4 content that was entertaining in Texas until they said, we
5 can't do this anymore and what they deemed to be now
6 entertaining in the State of South Carolina.

7 So, what is a routine traffic offense that should
8 have resulted in no pursuit whatsoever for the purpose of
9 entertainment, becomes a high-speed chase in which someone's
10 driven into an intersection and, and strikes our client
11 resulting in life altering injuries. And so that is the
12 backdrop that brings us here.

13 Again, if Big Fish is simply on the corner, producing
14 a commercial it would be ridiculous to say that if their
15 conduct on the corner resulted in an injury that they cannot be
16 held liable. And it would be more ridiculous to say if they
17 had a piece of paper between the production company and the
18 customer for whom they were producing the commercial that said,
19 "Hey, between us, there's no control and there's no liability
20 to think that that piece of paper would somehow present a legal
21 bar to a claim of a third party who's injured by negligent
22 conduct."

23 So, again, Your Honor, we're here at a 12B6. We are
24 not -- and our complaint does not seem to say that there's some
25 duty to intervene to stop a criminal from striking a car in an

1 intersection. That's not a liberal or generous reading of the
2 complaint. It's a ridiculous reading of the complaint. What
3 it does say, is that you have a duty to act -- use reasonable
4 care in the conduct of your business that your very business
5 model rewards aggressive police behavior, and it's that
6 aggressive police behavior that you actively participated in
7 that resulted in these injuries. And so respectfully, Your
8 Honor, we'd ask that you deny the motion to dismiss.

9 THE COURT: All right. Thank you, counsel.

10 MR. CHASE: Your Honor, if I may.

11 THE COURT: Yes

12 MR. CHASE: Your Honor, I -- frankly all of the
13 discussion of the Javier Ambler law, I find to be rather
14 interesting especially considering Plaintiff's counsel makes it
15 clear that in his view Texas law is of no value. Javier
16 Ambler's Law, Your Honor is wholly irrelevant here. First it
17 is a Texas law that has no applicability in South Carolina.
18 And it was signed into law in the tragic death of Javier Ambler
19 while Live PD cameras were rolling.

20 To be clear, Your Honor, live PD was largely scapegoated
21 in Texas for what was a tragic loss of life. And I should add
22 that both officers involved in Mr. Ambler's death were
23 acquitted by a Texas jury. And you know, Your Honor, Plaintiff
24 makes a huge show of Half Moon targeting Richland County after
25 it was kicked out of Texas. Richland County was one of the

1 departments that was on Live PD as well.

2 So, they're well familiar with, you know, how police
3 ride along programs works. Now, Your Honor, all of these
4 statistics that Plaintiff is yelling about or speaking about
5 here, you know, these statistics about increases in incidents
6 of force, Your Honor, these are self-reported incidents and the
7 fact that cameras are rolling. I would submit that the self-
8 reporting increased because officers knew that a third-party
9 camera was capturing their actions.

10 So, Your Honor, I find that to be completely
11 irrelevant to whether or not there is a duty and note, Your
12 Honor, here, there was -- the important point here, Your Honor,
13 is that Ms. Nordan was injured by a third-party criminal
14 suspect fleeing police. To hold a production company who's
15 filming police officers liable for the criminal actions of some
16 --of a fleeing criminal suspect - is -- that is ridiculous,
17 Your Honor.

18 And to impose a legal duty, based on that, is
19 similarly outrageous. There is note that the Plaintiff didn't
20 -- Plaintiff's counsel didn't address the fact that this was a
21 third party who injured Ms. Nordan. And to say that -- he did
22 not point to any of the exceptions either that would apply.
23 He's taking the idea that Half Moon negligently or
24 intentionally created a risk completely out of context of the
25 case law.

1 The case law involves creating a specific risk and
2 failing for warrant. That's what that -- what that exception
3 applies to. There was no specific risk that Ms. Nordan would
4 be hit by a fleeing criminal suspect, created by my clients.
5 It's just a ridiculous - it's a completely unforeseeable
6 action. So, for that to impose a legal duty and force my
7 client, to engage in costly litigation would be -- would
8 drastically impact their First Amendment rights and would be
9 wholly unjust and contrary to the law.

10 I should also add, Your Honor, the word entertainment
11 program keeps getting thrown around. The First Amendment
12 doesn't discriminate between entertainment and news programs.
13 You know, first a lot of entertainment including my client's
14 program, informs the public of newsworthy matters. That's
15 exactly what they do. And second, Your Honor, the US Supreme
16 Court has made it clear in *Zucchini v Scripps-Howard*
17 Broadcasting, that there's no doubt that the enter -- that
18 entertainment as well as news enjoys First Amendment
19 Protection. So, Your Honor, I'd ask again, I reiterate our
20 request that this case be dismissed for the fact that there is
21 no legal duty on the part of Half Moon and that's it. Thank
22 you, Your Honor.

23 THE COURT: All right.

24 MR. RICHTER: Your Honor will you hear anything
25 briefly, Your Honor?

1 THE COURT: Yes, sir. Be glad to.

2 MR. RICHTER: Your Honor, Mr. Chase who first
3 introduced Texas law into this discussion by telling the Court
4 about Mitchell versus Big Fish, which is a district court case
5 out of Texas that was based on Texas law. So, just that by
6 context the First Amendment is such a red herring here, this --
7 I can't in filming a television show, ride down Main Street at
8 a hundred miles an hour with a bullhorn and say later that the
9 First Amendment text me for whatever took place because I was
10 in the process of engaging in protected speech. That's kind of
11 silly. And finally with regard to this special duty and the
12 foreseeability issue.

13 You know, part of this case also we've sued Richland
14 County Sheriff's Department. There's going to be lots and lots
15 of testimony and evidence about police pursuit policies and
16 procedures. What happened to the Plaintiff in this case is not
17 just foreseeable. It is precisely what is sought to be
18 protected against by the adoption of police pursuit policies
19 and procedures. And when entertainment encourages somebody to
20 ignore those policies and procedures for the sake of fame or
21 money, that is the risk that presented itself here. So, it's
22 not just -- it's not just foreseeable, it is the inevitable
23 outcome of this type of conduct. That's all I have, Your
24 Honor.

25 THE COURT: All right. I'm not comfortable in ruling

1 from the bench on this. This is a unique situation, I never
2 quite dealt with anything like this in 33 years. I want y'all
3 to give me some proposed orders and any brief you want. How
4 much time would you need to do that, 20 days?

5 MR. RICHTER: That'd be fine, Your Honor, for the
6 Plaintiff.

7 THE COURT: All right. With that said -- according
8 to that -- if I'm looking at this docket correctly, I'm going
9 to need to have y'all or I'll continue the compel motion or
10 discovery motion.

11 MR. RICHTER: Your Honor, we've actually resolved
12 that --

13 THE COURT: It needs to be done until I decide
14 something on this.

15 MR. RICHTER: Your Honor, we did resolve that motion
16 to compel between counsel so if we --

17 THE COURT: Very good. Okay.

18 MR. RICHTER: -- if you don't mind us just
19 incorporating that into whatever order we submit, I'd
20 appreciate it.

21 THE COURT: Right, that helps. Okay. All right.

22 MR. CHASE: And Your Honor, just for clarity what
23 additional briefing or orders would you need from the parties?

24 THE COURT: Anything you want to -- you want to take
25 a look at. I just need some time to think about this one, I

1 haven't dealt with anything like this. If you need more time
2 let Campbell know. 20 days, okay. And if you need more time
3 just let us know.

4 MR. RICHTER: All right. Yes sir.

5 MR. CHASE: I appreciate, Your honor.

6 THE COURT: Interesting case there it is.

7 MR. RICHTER: All right. Thank you, Judge.

8 MR. CHASE: Thank you, Your Honor.

9 THE COURT: And be sure in both orders the withdrawal
10 of counsel needs to be included.

11 MR. CHASE: Yes.

12 MR. CRITZER: Yes, sir.

13 MR. CHASE: Thanks, Your Honor.

14 MR. GARFIELD: Thank you, Your Honor.

15 THE COURT: You're going to put me to work.

16 MR. RICHTER: Sir.

17 THE COURT: See you.

18 MR. CHASE: Take care.

19 [END OF HEARING]

20

21

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23

24

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CERTIFICATE OF TRANSCRIBER

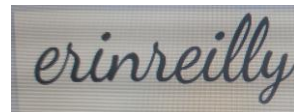
I, ERIN REILLY, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 5, South Carolina, on the 30th day of October, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

November 5th, 2024

ERIN REILLY

TRANSCRIBER

A rectangular box containing a handwritten signature in cursive script that reads "erinreilly".

August 11, 2022

VIA EMAIL

Richland County Sheriff's Department
5623 Two Notch Rd
Columbia, SC 29223
Attn: RCSD – Signal 30

RE: "UNT LAW ENFORCEMENT PROJECT" – Access Agreement Acknowledgment – Insignia License Fee – Richland County Sheriff's Department

Dear Sheriff Lott,

Reference is hereby made to the agreement dated as of June 10, 2022 (the "Agreement"), between Half Moon Pictures, LLC ("Producer") and the Richland County Sheriff's Department ("RCSD"), in connection with the project currently titled "Unt. Law Enforcement Project" ("Series"). All capitalized terms used herein, but not defined, shall have the same meaning as set forth in the Agreement.

In consideration of the rights granted by RCSD in and to any trademarks, service marks, tradenames, logos, copyrighted materials and/or other materials owned or controlled by RCSD which RCSD grants to Producer for use in and in connection with the Series ("RCSD Marks"), Producer shall pay RCSD – Signal 30 an all-inclusive license fee of One Thousand Dollars (\$1,000) (the "License Fee"), for each week in which RCSD Marks are featured in the initial broadcast of one or more of the original live episodes of the Series for such applicable week (if any) and in which the Marks were filmed during the course of such live episode. Notwithstanding the foregoing or anything to the contrary herein, there shall be no fee of additional fee (as if applicable) for: (i) RCSD Marks included only in pre-packaged or pre-taped elements of the Series; (ii) the inclusion of the RCSD Marks in any derivative production of the Series; (iii) repeat broadcast of any episode(s) in which the RCSD Marks may appear; and (iv) RCSD Marks included in the show open, cold-open, any flash backs, fast forwards, "next on" and/or "previously on" content, main title sequence or end credits. It is acknowledged and agreed that the foregoing consideration shall be in full discharge of Producer obligations in connection with the license of RCSD Marks, and there shall not be multiple License Fee payments per week.

Except as expressly provided by this acknowledgment, the Agreement is not otherwise modified in any respect and, except as expressly provided for herein, the Agreement is hereby ratified and confirmed in all respects.

Best regards,

HALF MOON PICTURES, LLC

By: 

Its: President

Dated: 9/20/22

RICHLAND COUNTY SHERIFF'S DEPARTMENT

By: 

Its:

Dated: 9/14/22

ROA-0084