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Mar 16 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Hon. Judge G. Nettles, 12th Circuit Court

Case No. 2021-CP-21-022121

(Appellate Case No. 2024-001454)

In RE: Hannah L. Secka, Individually and as guardian for the minor,
(M.Y.S.).....Appellants,

vs.

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

RECORD ON APPEAL

Hannah L. Secka (Pro se litigant)
(Moudou-Yasen Nasir Secka) Age 21
(Pro se disabled litigant)
503 W. Darlington St. #B
Florence, South Carolina 29501
843 407 8867
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SKozacki@willcoxlaw.com

1. Order Denying Summary Judgment of February 27, 2024.....	
2. Order of March 5, 2024.....	
3. Proposed Order of September 4, 2024.....	
4. Notice of Appeal & Proof of Service.....	
5. South Carolina Power of Attorney.....	
4. Complaint.....	
5. Defendant Answer and Affirmative Defenses.....	
6. Plaintiff's Answer to Interrogatories.....	
7. Defendant Memorandum in Support of its Summary Judgment.....	
8. Plaintiff Memorandum of Law in Opposition to Motion for Summary Judgment.....	
9. Plaintiff Motion for Reconsideration.....	
10. Respondents Designation of Matter.....	
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12. August 21, 2024, 12 th Circuit Court Hearing Transcript.....	
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15. Deposition Transcript of Hannah Secka taken November 16, 2022.....	
16. Deposition Transcript of Richard O'alley taken September 6, 2023.....	
17. Deposition Transcript of Daisy Johnson taken October 17, 2023.....	
18. Deposition of Dr. Sterling Harris taken December 12, 2023.....	

19. Deposition Testimony (MYS) Kathy Luhrs pg. 77-86.....
 Exhibit A: Date Stamped Image 5/29/2018
 Florence County Incident Report #2019-06-0227 Neglect/Abuse
20. Deposition Testimony of (MYS) locker room assault/hazing pg. 88-102.....
 Exhibit B: Date Stamped Image 10/17/2018
 Florence County Incident Report #2019-02-0194 Assault & Battery 3rd
21. Due Process Hearing Testimony Daisy Johnson pg. 52-55.....
 Exhibit C: Assault, Harassment, Bullying, and Intimidation
22. Exhibit F: Season’s Psychology Medical Bills for (MYN) and Hannah Secka

Review Limited to Record on Appeal

Pursuant to Rule 210(h), except as provided by Rule 212 and Rule 208(b)(1)(C) and (2), the appellate court will not consider any fact which does not appear in the Record on Appeal.

/s/ Hannah L. Secka (Pro se litigant)

(Moudou-Yasen Nasir Secka) Age 21
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March 16, 2020
Florence, South Carolina



2021CP2102121 : Hannah J Secka , plaintiff, et al VS Florence County School District One , defendant et al
 Common Pleas

Case Number 2021CP2102121
 Case Subtype Personal Injury 350
 Filed Date 09-29-2021
 Status Appeal

Plaintiff
 Defendant
 Assigned Judge
 File Type

Hannah J Secka et al
 Florence County School District One
 Clerk Of Court C P, G S, And Family Court
 Jury

Show/Hide Participants

Name	Description	Type	File Date
Hannah J Secka	Notice/Notice Of Appeal	Filing	09-18-2024 12:01:00 PM
Hannah J Secka	NEF(09-13-2024 02:24:33 PM) Motion/Relieve As Counsel	Filing	09-13-2024 03:59:17 PM
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Case Summary

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David Nelson Lyon	1/16/2024_MOTION_Notice of Motions Roster Publication Sent	Action	12-21-2023	04:03:14 PM
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Case Party Inactive	Memo/Memo in Support of Motion for Summary Judgment-EX_6	Filing	10-23-2023	01:08:49 PM
Case Party Inactive	Memo/Memo in Support of Motion for Summary Judgment-EX_7	Filing	10-23-2023	01:08:49 PM
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Case Party Inactive	Memo/Memo in Support of Motion for Summary Judgment-EX_9	Filing	10-23-2023	01:08:49 PM
Hannah J Secka	ADR/Deferred	Action	09-29-2023	10:02:27 AM
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Case Summary

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Hannah J Secka	Summons & Complaint	Filing	09-29-2021	01:40:33 PM

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF FLORENCE	)	TWELFTH JUDICIAL CIRCUIT
	)	
IN Re: Hannah J. Secka, individually and	)	CIVIL ACTION NO: 2021-CP-21-02121
as parent and guardian for the minor	)	
M.Y.S.,	)	
	)	
Plaintiffs,	)	
	)	ORDER DENYING DEFENDANT
	)	FLORENCE COUNTY SCHOOL
	)	DISTRICT ONE'S MOTION FOR
	)	SUMMARY JUDGMENT
vs.	)	
	)	
FLORENCE COUNTY SCHOOL	)	
DISTRICT ONE and FLORENCE	)	
COUNTY SHERIFF'S DEPARTMENT,	)	
	)	
Defendants.	)	
	)	

RECEIVED
Aug 27 2025
SC Court of Appeals

This matter is before the Court on a Motion for Summary Judgment filed by Defendant Florence County School District One (hereinafter, "District") under Rule 56, SCRCP. The Court has considered the pleadings and memoranda submitted by the parties, the oral arguments of the parties at the hearing held on February 22, 2024, and the authorities cited by Defendant and Plaintiff. For the reasons explained below, the Court denies the Defendant's Motion for Summary Judgment.

CASE SUMMARY

This action was brought under the South Carolina Tort Claims Act (hereinafter, "SCTCA") by Hannah J. Secka, individually and as the parent and guardian of her then-minor child, M.Y.S (hereinafter, the "Plaintiffs") alleging that Florence County School District One (hereinafter, the "District") and the Florence County Sheriff's Department (hereinafter, the "Sheriff") were grossly negligent:

- a. In failing to comply with the provisions of the Safe Schools Act of 1990. S.C. Code Ann § 59-5-10, *et. seq.*, of the South Carolina Code of Laws, as amended;
- b. In being grossly negligent in the hiring, retention, and supervision of Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, Lisa Doyles, and Deputy Jablonski Green when the Defendant knew, had reason to know, or in the exercise of due care should have known, that these employees posed a serious threat of abuse and physical, mental and emotional harm to students making up the student body of Sneed Middle School and West Florence High School, and more particularly to the minor child herein;
- c. In failing to follow their school code of conduct for the District, which sets forth that each student has, *inter alia*;
- d. In failing to follow their harassment policies as set forth by the District and in failing to adequately In failing to timely and appropriately investigate and respond to the violent and abusive acts of various students, and more particularly, in failing to take adequate precautions to protect the minor child herein from physical, mental, and/or emotional harm;
- e. In being grossly negligent in the supervision of the minor child herein, when Defendant knew, had reason to know, or in the exercise of due care should have known, that, Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, Lisa Doyles, and Deputy Jablonski Green posed a serious threat of abuse and physical, mental, and emotional harm to children making up the student body of Sneed Middle School and West Florence High School, and more particularly to the minor child herein;
- f. In failing to recognize and adhere to the heightened standard of care with regard to students at West High School, and more particularly the minor child herein; and in failing to recognize that the conduct, acts, and/or omissions of the agent and/or employees involved an enhanced risk of harm to the minor child herein:
 - i. Each student has a right to be treated fairly and with kindness;
 - ii. Each student has the right to be safe and protected;
 - iii. Each student has the right to be respected as an individual;
 - iv. Each student has the right to a healthy environment to learn.

The Plaintiffs and Defendant District informed the Court that the legal action against Defendant Sheriff was settled during mediation on October 26, 2023.

STATEMENT OF UNDISPUTED FACTS

During the 2017-2018 academic school year, and 2018-2019 academic school year, M.Y.S., a minor, was a student at Sneed Middle School and West Florence High School respectively in Florence County School District One. Compl. ¶ 5. M.Y.S. had an Individual Education Program (“IEP”) for his Autism Spectrum Disorder. Ex. 5, OCR Letter of Finding, FCD1.SECKA2 000982. M.Y.S. also has narcolepsy, cerebral palsy, depression, anxiety, and P.T.S.D. Ex. 1, M.Y.S. Dep. p. 43, lns. 7-13. M.Y.S. took diploma-track courses and graduated from West Florence High School. He played on the football team during his freshman and sophomore years. M.Y.S. Dep. p. 43, ln. 14 - p. 44, ln. 19. Also, M.Y.S. had a Behavior Intervention Plan (“BIP”) and a one-to-one aide, Ms. Daisy Johnson, whose job was to “observe M.Y.S, to ensue he was on the right track and doing the right things in class.” Ex. 5, Johnson Dep. p. 9, lns. 17-24. M.Y.S was never expelled or recommended for any type of alternative education setting. *Id.*

On or about May 29, 2018, Kathy Luhrs, while employed at Sneed Middle School, wrote “loyalty” with a black chemical marker on M.Y.S’s arm without his consent or authorization. Compl. ¶ 16. Kathy Luhrs retired from the District at the end of that [2017-2018] academic school year. From August 2018 through May 2020, Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyles were employees of West Florence High School. On or about October 17, 2018, M.Y.S. was attacked by several students in the West Florence High School’s athletic locker room resulting in physical injuries to his face and back. Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyles did not conduct an investigation, prepare a report, or follow up with the

Plaintiffs regarding the incident or the injuries sustained. Compl. ¶ 17, Ex. 4, Hannah J. Secka Dep. p. 86, In. 10-p. 88, In. 3. Kathy Luhrs was an M.Y.S. eighth-grade Algebra teacher at Sneed Middle School. Ex. 1, PLT FCSDO 000005-000008; Ex. 4, Hannah J. Secka Dep. p. 112, In. 13-18. Mathew Dowell was M.Y.S.'s principal the entire time M.Y.S. was a student at West Florence High School. Ex. 4, Hannah J. Secka Dep. p. 112, In. 19-24. Jeff Lee was the junior varsity football coach when M.Y.S. was attacked in the football locker room. Ex. 4, Hannah J. Secka Dep. p. 113, In. 2-6. Christopher Coleman was the assistant principal at West Florence High School. Ex. 4, Hannah J. Secka Dep. p. 113, In. 15-22. Lisa Doyles was M.Y.S.'s resource teacher at West Florence High School. Ex. 4, Hannah J. Secka Dep. p. 113, In. 15 -p. 114, In. 4.

Also, on or about August 2018 through May 2020, Deputy Jablonski Green, an employee of the Defendant Florence County Sheriff's Department, was assigned as the School Resource Officer (hereinafter, "SRO Deputy Green") at West Florence High School by the express approval and consent through a Memorandum of Understanding between Florence County School District One and Florence County Sheriff's Department. Compl. ¶ 19. On or about October 15, 2019, SRO Green was physically restrained by colleagues as he harassed, bullied, and assaulted M.Y.S. while conducting an unauthorized interrogation of M.Y.S. in the presence of Mr. Dowell, the high school principal on the premises of West Florence High School. Compl. ¶ 19.

STANDARD FOR CONSIDERING MOTION

The District claims the Court should grant summary judgment pursuant to the South Carolina Tort Claims Act. In such cases "[t]he burden of establishing a limitation upon liability or an exception to the waiver of immunity is upon the governmental entity asserting it as an affirmative defense. It is well established that summary judgment is appropriate only when it is perfectly clear that no genuine issue of material fact exists and further inquiry into the facts is not

desirable to clarify the application of the law. In determining whether triable issues of fact exist, all inferences from the facts in the record must be viewed in the light most favorable to the party opposing the summary judgment motion. Even when there is no dispute as to the evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should not be granted.” *Rice v. School Dist. Of Fairfield*, 317 S.C. 77, 91, 452 S.E.2d 352, 354 (Ct. App. 1994). It is well established in South Carolina that when considering a motion for summary judgment under Rule 56, the evidence and its reasonable inference must be viewed in the light most favorable to the non-moving party. *Jones ex rel. Jones v. Enterprise Leasing Company-Southeast*, 383 S.C. 259, 678 S.E.2d 819 (Ct. App. 2009). In determining whether any triable issue of fact exists, the evidence and all inferences that can reasonably be drawn must be viewed in the light most favorable to the non-moving party. *Medical Univ. of South Carolina v. Arnaud*, 360 S.C. 615, 602 S.E.2d 747 (2004); *Rife v. Hitachi Constr. Mach. Co., Ltd.*, 363 S.C. 209, 609 S.E.2d 565 (Ct.App.2005). If triable issues exist, those issues must go to the jury. *Mulherin-Howell v. Cobb*, 362 S.C. 588, 608 S.E.2d 587 (Ct.App.2005). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. *Gadson v. Hembree*, 364 S.C. 316, 613 S.E.2d 533 (2005); *Montgomery v. CSX Transp., Inc.*, 362 S.C. 529, 608 S.E.2d 440 (Ct.App.2004). Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. *Nelson v. Charleston County Parks & Recreation Comm’n*, 362 S.C. 1, 605 S.E.2d 744 (Ct.App.2004). Because summary judgment is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues. *Helena Chem. Co. v. Allianz Underwriters Ins. Co.*, 357 S.C. 631, 594 S.E.2d 455 (2004); *Hawkins v. City of Greenville*, 358 S.C. 280, 594 S.E.2d 557 (Ct.App.2004).

DISCUSSION

A. Plaintiff has alleged facts sufficient to establish genuine issues of material facts sufficient to survive Defendant's Motion for Summary Judgment.

Under Rule 56, SCRCP, a party is entitled to judgment as a matter of law if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact. “Summary judgment is appropriate when it is clear there is no genuine issue of material fact and the conclusions and inferences to be drawn from the facts are undisputed.” *McClanahan v. Richland County Council*, 350 S.C. 433, 437, 567 S.E.2d 240, 242 (2002). A party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991). A party opposing a motion for summary judgment may not rest on the mere allegations of his pleadings but must set forth specific facts showing that there is a genuine issue of material fact to be considered by a jury. *Thomas v. Waters*, 315 S.C. 524, 445 S.E.2d 659 (Ct. App. 1994). In determining whether any triable issues of fact exist, the evidence and all inferences that can be reasonably drawn therefrom must be viewed in the light most favorable to the nonmoving party. *Vermeer Carolina’s, Inc. v. Wood/Chuck Chipper Corp.*, 336 S.C. 53, 518 S.E.2d 301 (Ct. App. 1999). If triable issues exist, those issues should be submitted to the jury. *Young v. S.C. Dept. of Corrections*, 333 S.C. 714, 718, 511 S.E.2d 413, 415 (Ct. App. 1999).

In the instant case, Plaintiffs’ claims were filed timely. Plaintiffs have shown that a genuine issue of material fact exists as to whether Jeff Lee, the junior varsity football coach, and Matthew Dowdell’s, the high school principal conduct were “extremely reckless”. The Plaintiffs’ claims are based on the District employees’ failure to act, not the students’ intentional conduct. Further, the Plaintiffs’ claims are not directed towards individual employees named in the Complaint, but rather

those individuals in their capacity as employees for the District. Compl ¶¶ 21-25. In addition, the Plaintiffs' designated expert Dr. Sterling Harris, Ph. D. provided supporting testimony regarding for the Plaintiffs in opposition to the District's Motion for Summary Judgment. Ex. 2A, Dr. S. Harris, Ph. D, Expert Dep. p. 3, In. 18-p. 6, In. 13; p. 15, In. 12, p. 22, In. 25.

Dr. Harris's testimony further establishes that the Plaintiffs have met their burden of proof to defeat the District's Motion for Summary Judgment. During Dr. Harris's deposition, he reviewed a picture where Kathy Luhrs had written the word "loyalty" on M.Y.S.'s arm. Ex. 3, M.Y.S Dep. p. 77, In. 2 -p. 88, In. 8. Ex. 1, PLT FCSDO 000011. Specifically, he testified that there is no manner, no instance, or at any time where a teacher should write on a student for any reason. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 68, In. 3-p. 71, In. 15

Further, Dr. Harris testified that within any type of locker room for any activities there should be adult supervision. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 55, In. 12-p. 59, In. 13. M.Y.S. testified that while he was changing after football practice two white students started calling him fresh meat and started acting gay and stuff while getting closer to him. One student grabbed his pants while he was putting them on. M.Y.S. Dep. p. 88, In. 20-p. 98, In. 28. M.Y.S, was forced to defend him and received bruises during the altercation. M.Y.S. Dep. p. 88, In. 20-p. 98, In. 28. Also, in this instance, Dr. Harris reviewed photos where M.Y.S had been hit or slapped in his face and bruises and scratches were on his back. Ex. 1, PLT FCSDO 000009-000010. Dr Harris testified that especially during extracurricular activity, there has to be some adult supervision in any area where you have kids for a certain period of time that are involved with the school. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 55, In. 12-p. 59, In. 13. Since no information was provided that there was a coach in the locker when the incident occurred the principal should have questioned the athletic director or coach in terms of a

situation like this occurring. Ex. 4, Hannah J, Secka Dep. p. 86, In. 10-p. 88, In. 3; Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 55, In. 12-p. 59, In. 13.

In addition, the district failed to provide follow-up information, such as a follow-up investigation of what occurred in the locker room, whether it be taking statements from different students on the team, or different players, to get an understanding of just what happened when there's an allegation like this that is made. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 55, In. 12-p. 59, In. 13. Therefore, Plaintiffs have shown that a genuine issue of material fact exists as to whether the District through its employees, conduct was "grossly negligent" which is a question for the jury.

B. Plaintiffs' claims are not towards individual employees named in the complaint, but rather for the school District, because of the conduct of those individuals in their capacity as employees.

Defendant has alleged that Plaintiffs have failed to demonstrate any tortious or injurious conduct by District employees. In M.Y.S.'s deposition, he specifically stated that a teacher wrote on his arm with a Sharpie. M.Y.S. Dep. P. 78. Further, he testified that he was not the only student who had been marked with a "tattoo" by his teacher. *Id.* This conduct is not only tortious but falls beyond the scope of what a reasonable educator would have done. Plaintiffs' expert witness, Dr. Harris testified in his deposition that Kathy Luhrs's conduct fell outside of the scope of what a reasonable educator would have done and that he felt it was reasonable for the minor and their parent to pursue legal action as a result of such conduct. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 68, In. 3-p. 71, In. 15. Dr. Harris's testimony clearly establishes that the Plaintiffs have met their burden of proof to defeat a Defendant's Motion for Summary Judgment in this regard. During Dr. Harris's deposition, he was provided a picture where it appeared that a teacher wrote on Plaintiff

M.Y.S's arm. Ex. 1, PLT FCSDO 000011(Teacher Writing on Arm) Specifically, Dr. Harris testified that such an incident should never have occurred when he saw the picture of the student with the word "loyalty" written on his arm by a teacher, Ms. Luhrs, Dr. Harris, further stated that there is no manner, no instance, or at any time where a teacher should actually write-on a student for any reason. Ex. 1, PLT FCSDO 000011(Teacher Writing on Arm); Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 68, In. 3-p. 71, In. 15. Based on this, whether the conduct of the teacher was grossly negligent is an issue of material fact that should be decided by a jury.

Furthermore, the actions and inaction of Assistant Principal Doyles, Resource teacher Coleman, Principal Dowdell, and Coach Lee provided the necessary information to the jury to establish that many Florence County School District One Employees knew about the need for heightened care when supervising M.Y.S. Plaintiffs have provided testimony to show that the care was not taken, and as a result of this failure by the District employees collectively, M.Y.S. has suffered actual and emotional damages.

In this instance, Dr. Harris testified regarding the District's employee's failure to protect M.Y.S. during his deposition. Dr. Harris asserted that the District failed to protect M.Y.S. during extra-circular activities while he was in the football locker room. Specifically, Dr, Harris testified that that taking into account what occurred, M.Y.S.'s behavioral disability that required that he had a shadow, it is his opinion as a principal that there had already been some predetermined fears or a predetermined idea that the student could react emotionally as having bad reactions with other students or teachers. So, if the student is being questioned in that manner and the parents are not there, whoever the person doing the questioning has to be directly aware of it. Otherwise, it was Dr. Harris' opinion as a principal that he wouldn't want an employee to be put in a position where they're setting off those triggers without full knowledge of the student's disability. Ex. 2D, Dr. S.

Harris, Ph. D, Expert Dep. p. 61, In. 2-p. 64, In. 15. Further, the incident involving SRO Green was not solely brought against the Sheriff alone. It was brought against the District for its failure to protect M.Y.S. Mr. Dowdell, the high school principal, delivered M.Y.S. to SRO Green for interrogation. Ex. 5, Daisy Johnson Dep. p. 38, In. 5-10. Mr. Dowell did not lead the questioning or intercede on M.Y.S.'s behalf until SRO Green became belligerent with M.Y.S. *Id.* As stated above in Dr. Harris's testimony, M.Y.S should have been questioned by a School Administrator with his parent or guardian present and not SRO Green. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 61, In. 2-p. 64, In. 15. Therefore, Plaintiffs have shown that a genuine issue of material fact exists as to whether the District, through its employees conduct. Whether the employees were grossly negligence is a question for the jury.

C. Plaintiff's claim is not barred by the SC Tort Claims Act Statute of Limitations because Plaintiff M.Y.S. did not reach the age of majority until January 7, 2022.

The Defendant is correct in its application of the statute of limitations for claims brought pursuant to the SC Tort Claim Act, but their memorandum failed to acknowledge the exception granted for claims brought by disabled plaintiffs. The SC Tort Claims Act provides an exception to §15-78-110 for infant plaintiffs. "If a person entitled to bring an action under Chapter 79 of this title, is at the time of the cause of action accrued within the age of eighteen years, the time of disability is not a part of the time limited for the commencement of the action, except that the period within which the action must be brought cannot be extended: (a) more than five years by any such disability, except infancy; not (b) in any case longer than one year after the disability ceases." S.C. Code Ann. §15-3-40. The District has erroneously asserted that Plaintiff's claims for specific conduct that occurred before the complaint was filed on September 26, 2021, are time-barred by §15-78-110. M.Y.S. did not reach the age of majority until January 7, 2022, and the specific acts giving rise to this action occurred before that date. M.Y.S. could have brought these

claims until one year after the year his disability (infancy) ceased. Therefore, M.Y.S. had until January 7, 2023, to bring this claim despite failing to file a verified claim. Plaintiff M.Y.S.'s claims were filed in a timely manner.

Pursuant to S.C. Code Sec 15-78-100 and 110, claims subject to the Tort Claims Act must be commenced within two years after the date the loss was or should have been discovered. *Id.* Plaintiff Secka claims were timely filed because a statute of limitation starts to run when Plaintiff knows or should have known how the injuries occurred. Plaintiff Secka was not aware of what occurred in the locker room until several months after the occurrence. Plaintiff Secka requested an investigation and meeting regarding the incident in the locker room but to no avail. She was not aware of what occurred in the locker room until October of 2019, which makes the complaint timely filed as it relates to this issue. Further, Plaintiff Secka in her representative capacity is seeking reimbursement for medical expenses while M.Y.S. was a minor. *Patton v. Miller*, 420 S.C. 471, 483, 804 S.E.2d 252, 258 (2017). Plaintiff Secka has presented evidence that she incurred medical expenses related to the incidents alleged in the Complaint. Ex. 1, PLT FCSDO 000038-000040. Therefore, Plaintiff M.Y.S. and Plaintiff Hannah J. Secka claims survive Defendant's Motion for Summary Judgment on a statute of limitation violation and is a question for the jury.

D. Plaintiffs have pled facts sufficient to establish damages for emotional distress because a reasonable jury could find the conduct of District employees to be "extremely reckless".

South Carolina courts have recognized that an individual's negligent conduct can be so gross as to amount to recklessness. *See Berberich v. Jack*, 392 S.C. 278, 287, 709 S.E.2d 607, 612 (2011); *Jeffers v. Hardeman*, 231 S.C. 578, 582, 99 S.E.2d 402, 404 (1957); *Grooms v. Marlboro Cty. Sch. Dist.*, 307 S.C. 310, 414 S.E.2d 802 (Ct. App. 1992). This is based on the principle that

an individual's conduct cannot be reckless where it was not at least grossly negligent. *See also* 18 S.C. Jur. Negligence § 9 (2012) ("Recklessness is a higher degree of negligence than gross negligence."). Recklessly indifferent conduct is the touchstone for recovery from emotional damages, where both the conduct and emotional injury are extreme. *Stephens v. United States*, Civil Action No. 0:16-cv-149-BHH, 2017 U.S. Dist. (D.S.C. Jan. 19, 2017). To recover under an intentional infliction of emotional distress theory, a plaintiff must establish (1) the defendant intentionally or recklessly inflicted severe emotional distress or was certain, or substantially certain, that such distress would result from his conduct; (2) the conduct was so "extreme and outrageous" so as to exceed "all possible bounds of decency" and must be regarded as "atrocious, and utterly intolerable in a civilized community;" (3) the actions of the defendant caused plaintiff's emotional distress, and (4) the emotional distress suffered by the plaintiff was "severe" such that "no reasonable man could expect to endure it." *Argoe v. Three Rivers Behavioral Health, L.L.C.*, 392 S.C. 462, 475, 710 S.E.2d 67, 74 (2011) (quoting *Hansson v. Scalise Builders of S.C.*, 374 S.C. 352, 356, 650 S.E.2d 68, 70 (2007)). During the trial and in their complaint, the Basses asserted their intentional infliction of emotional distress claim was based on DSS's reckless rather than intentional conduct. *Bass v. S.C. Dep't of Soc. Servs.*, 403 S.C. 184, 742 S.E.2d 667 (Ct. App. 2013). The ultimate conclusion generally hinges on whether a school District "knew or should have known" of the need to exercise control over a given situation. *Moore v. Berkeley Cnty. Sch. Dist.*, 326 S.C. 584, 486 S.E.2d 9 (Ct. App. 1998). M.Y.S.'s mother informed Jeff Lee, the junior varsity football coach that some of the football team members were harassing M.Y.S. and that she was concerned for his physical safety and emotional well-being while participating on the football team. Ex. 1. PLT FCSDO 000012-000039 By failing to investigate the allegation, intervene with the players, or supervise M.Y.S. based on his knowledge of anticipated danger, the employee's

failure to act proximately caused M.Y.S. to be both emotionally and physically harmed in the locker room with his teammates. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 61, In. 2-p. 64, In. 15. A reasonable football coach would have taken steps to protect his player from such harm, especially considering the vulnerable nature of M.Y.S. due to his mental condition. *Id.* The Plaintiff has provided expert testimony from Dr. Harris stating it is his opinion that there should have been action taken by this coach in this circumstance. *Id.* Based on how severe physical abuse in a football locker room could have become, the coach's conduct, and expert testimony stating what a reasonable educational employee should have done in that situation, a reasonable jury can find the conduct to be considered "extremely reckless". M.Y.S. has shown evidence of physical harm and it is reasonable for a child who already has emotional concerns to suffer extreme emotional harm from such conduct. Ex. 4 Hannah J. Secka Dep. p. 103, In. 8-p. 153, In. 5. Therefore, Plaintiffs have shown that a genuine issue of material fact exists as to whether the District through its employees, conduct was "extremely reckless" which is a question for the jury.

E. Plaintiffs have allege facts sufficient to prove gross negligence, and Plaintiffs' claim is based on the District employee's failure to act, not the students' intentional conduct, therefore immunity would not be proper.

The District has alleged in their motion for summary judgment that the District should be immune from claims of negligent supervision because the claim is based on the intentional acts of third parties. Def. Motion P. 18. Briefly, this argument fails because Plaintiffs are not asserting that they are entitled to relief based on the acts of the students but rather the District employee's failure to act when given notice of potential danger, and reckless choice to not supervise M.Y.S. properly. M.Y.S. Dep. p. 88, In. 20-p. 98, In. 28. Ex. 5, Daisy Johnson Dep. p. 29, In. 9-p. 42, In. 5. The District is not immune from the claim of negligent supervision Therefore, Plaintiffs have shown

that a genuine issue of material fact exists as to whether the District through its employees, conduct was “grossly negligent” or “extremely reckless” which is a question for the jury.

THEREFORE, IT IS ORDERED THAT:

Defendant’s Motion for Summary Judgement is Denied

IT IS SO ORDERED.

Honorable Micheal G. Nettles
Judge, Twelfth Judicial Circuit

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

IN Re: Hannah J. Secka, individually and as
parent and guardian for the minor, M.Y.S.,

Plaintiff(s),

v.

Florence County School District One and
Florence County Sheriff's Department,

Defendant(s).

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Civil Action No.: 2021-CP-21-02121

ORDER

This matter came before me on February 20, 2024, pursuant to Defendant Florence County School District One's (the "District") Motion for Summary Judgment. Darryl Caldwell of the Caldwell Law Firm appeared on behalf of the Plaintiffs Hannah J. Secka and her son, M.Y.S. David N. Lyon of Duff Freeman Lyon, LLC, appeared on behalf of the District. After consideration of the filings of the parties, the pleadings and arguments of counsel, and the applicable law, the Court hereby grants the District's Motion for Summary Judgment.

STATEMENT OF FACT

This is a South Carolina Tort Claims Act ("SCTCA") case. M.Y.S. was a student in the District at all times relevant to this action. The Complaint alleges various incidents of gross negligence on the part of the District between 2017 and 2019 that harmed M.Y.S.

M.Y.S. was a student at Sneed Middle School during the 2017-2018 school year. He was a student at West Florence High School during the 2018-19 and 2019-20 school year. The Court notes that M.Y.S. received some special education services under the Individuals with Disabilities Education Act ("IDEA"), and Plaintiffs have previously initiated a number of challenges against

the District under the IDEA's due process provisions. As part of the services provided to him, M.Y.S. had an Individual Education Program ("IEP") to address various ailments with the potential to impact his education including Autism Spectrum Disorder, narcolepsy, cerebral palsy, depression, anxiety, and P.T.S.D. M.Y.S. also had a Behavior Intervention Plan ("BIP") to address his negative behaviors—he had an extensive discipline record—which included the services of a one-to-one aid to “keep him on the right track [and] from disturbing the class.” In any event, M.Y.S. took regular education, diploma-track courses and graduated. He also played on the football team his freshman and sophomore year.

The Complaint alleges “[t]hat on various occasions, during the academic school year 2018-2019, [District employees] Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyles threatened, bullied, intimidated, and harassed [him].” Compl. ¶ 18. In deposition testimony, M.Y.S. described the incidents that led him to make such allegations.

M.Y.S. complained that Mr. Dowdell would not let M.Y.S. play in football games and so M.Y.S. did not “get to enjoy [his] actual football high school experience.” M.Y.S. testified: “I guess, it was their way of like, making sure I don't get hurt, which was I -- I'm assuming that that was what they were doing.”

M.Y.S. complained that Mr. Coleman “harassed” him by letting other students go through the metal detectors at the school's entrance while searching M.Y.S.'s bag “extra, extra hard . . . as if he's trying to have a reason to -- to get [him] in trouble, basically.” M.Y.S. said he “would feel very singled out because of that.”

M.Y.S. complained that Ms. Doyles almost “failed [him],” but he admitted he was able to salvage his grade. He also claimed that Ms. Doyles made a comment that made it seem like she

was comparing him to a disabled character in a popular young adult novel, which made M.Y.S. “mad when she said that.”

M.Y.S. claimed that his football coach, Coach Lee, failed to investigate an incident that occurred in the locker room in which M.Y.S. claimed he got into a “tussle” with other students. M.Y.S. said this made him feel “like everybody else was just against [him], basically.”

M.Y.S. also alleged that his eighth-grade teacher, Ms. Luhrs, wrote on his arm with a marker. About this incident, M.Y.S. testified that he did not remember exactly what happened but recalled that the teacher was talking about tattoos and then began drawing on several students’ hands and arms. M.Y.S. recalled that the teacher wrote “loyalty” [sic] on his arm, misspelling the word, “loyalty.” M.Y.S. testified that he “didn’t really too much appreciate that” and that he “just tried to wash it off.”

Finally,¹ Plaintiffs complained that on or about October 17, 2018, M.Y.S. was “attacked” by his fellow teammates in the football locker room.” Compl. ¶ 17. In deposition testimony, M.Y.S. described this incident as a “tussle” that lasted for a “little minute” and involved two other teammates, who hit him and whom he hit back. M.Y.S. described his injuries from this incident as “like, a little whelp or whatever” right above his lip (but no bleeding) and “little scrapes, little scratches” on his back. Importantly, M.Y.S. stated that no one in the locker room would have seen

¹ Plaintiffs also complained about an interaction between M.Y.S. and a Florence County Sheriff’s Department Deputy, Jablonski Green, who served as the school resource officer (“SRO”). Generally, M.Y.S. complained that Deputy Green should not have interrogated him without a parent and that Deputy Green was too aggressive in his questioning. The Sheriff’s Office reached a settlement with Plaintiffs. The Stipulation of Dismissal was entered on January 3, 2024. It is undisputed that Deputy Green was an employee of the Sheriff’s office, not the District. Accordingly, even if Deputy Green’s conduct supported a Tort Claims Act claim, that claim would be against the Sheriff’s Department as his employer, not the District. In any event, this claim has been resolved and is no longer part of this case.

this incident occurring because it was “too congested with players.” Additionally, the record contains evidence that M.Y.S. previously denied that this incident occurred. M.Y.S. provided a statement to an investigator from the United States Department of Education’s Office of Civil Rights (“OCR”) saying that he did not remember being assaulted by his teammates. OCR’s report also notes that M.Y.S. told Coach Lee “that he had not been assaulted by his teammates but that he got bumped accidentally in the basketball gym before practice.” Finally, a police report that Plaintiff Secka filed several months later regarding this incident states that M.Y.S. “told his mother that they were rough housing around in the locker room after practice.” In sum, the only record evidence as to what occurred in the locker room are the several conflicting statements made by M.Y.S.

LEGAL STANDARD

A. Summary Judgment Standard

Under Rule 56, SCRCP, a party is entitled to judgment as a matter of law if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact. “Summary judgment is appropriate when it is clear there is no genuine issue of material fact and the conclusions and inferences to be drawn from the facts are undisputed.” *McClanahan v. Richland County Council*, 350 S.C. 433, 437, 567 S.E.2d 240, 242 (2002). A party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991). A party opposing a motion for summary judgment may not rest on the mere allegations of his pleadings but must set forth specific facts showing that there is a genuine issue of material fact to be considered by a jury. *Thomas v. Waters*, 315 S.C.

524, 445 S.E.2d 659 (Ct. App. 1994). It is not enough that the non-moving party show that a factual dispute exists; “[o]nly disputes over facts that might affect the outcome of the suit under the governing law [i.e., material facts] will properly preclude the entry of summary judgment.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Additionally, “it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine.” *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023) (clarifying prior precedent and rejecting the “mere scintilla” standard). In determining whether any triable issues of fact exists, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the nonmoving party. *Vermeer Carolina’s, Inc. v. Wood/Chuck Chipper Corp.*, 336 S.C. 53, 518 S.E.2d 301 (Ct. App. 1999). If triable issues exist, those issues should be submitted to the jury. *Young v. S.C. Dept. of Corrections*, 333 S.C. 714, 718, 511 S.E.2d 413, 415 (Ct. App. 1999). However, when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. *Pye v. Aycock*, 325 S.C. 426, 480 S.E.2d 455 (Ct. App. 1997).

ORDER

The SCTCA “is the exclusive civil remedy available for any tort committed by a governmental entity, its employees, or its agents.” S.C. Code. § 15–78–20(b). In passing the Act, the Legislature intended to waive the State’s sovereign immunity under certain circumstances while, at the same time, not subjecting the State to unlimited or unqualified liability. S.C. Code Ann. § 15-78-60. As an additional safeguard, the Legislature expressly provided that the Act’s exceptions to the waiver of immunity “must be liberally construed in favor of limiting the liability” of covered entities. *See* S.C. Code Ann. § 15-78-20(f).

For the multiple reasons stated below, I find that the Plaintiffs have failed to demonstrate a genuine issue of material fact as to any of their claims, and the District is entitled to summary judgment as a matter of law.

1. The Court finds that Plaintiffs have failed, as matter of law, to establish a compensable “loss” under the Tort Claims Act regarding the actions of District employees.

The SCTCA defines a compensable “loss” as follows:

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

S.C. Code § 15-78-60 (emphasis added). Claims which seek to hold the District liable in negligence for the actions or inactions of their employees cannot seek damages for emotional distress only because it is the equivalent of a negligent infliction of emotional distress claim. South Carolina only permits recovery for negligent infliction of emotional distress, “in the very limited context of situations involving bystander trauma” where “(a) the negligence of the defendant must cause death or serious physical injury to another; (b) the plaintiff bystander must be in close proximity to the accident; (c) the plaintiff and the victim must be closely related; (d) the plaintiff must contemporaneously perceive the accident; and (e) the emotional distress must both manifest itself by physical symptoms capable of objective diagnosis and be established by expert testimony.” *Stephens v. United States*, 2017 WL 217965, at *3 (D.S.C. Jan. 19, 2017) (citing *Kinard v. August Sash & Door Co.*, 286 S.C. 579, 582, 336 S.E.2d 465, 467 (1985)).

None of the incidents involving District employees Dowdell, Lee, Coleman, Doyles and Luhrs caused any bodily injury to M.Y.S. This fact is not disputed. Furthermore, M.Y.S.’s

assertions that he was mad at his teachers, felt singled out, or felt everyone was against him do not amount to compensable instances of emotional distress. Even if they did, this is clearly not a bystander trauma case for M.Y.S. or Plaintiff Secka such that either could prevail on a negligent infliction of emotional distress claim. Thus, Plaintiffs have failed to establish a compensable Tort Claims Act “loss” because of the actions of Dowdell, Lee, Coleman, Doyles and Luhrs.

2. The Court finds that Plaintiffs have failed to establish a genuine issue of material fact tending to show that the District was grossly negligent as to the supervision of its employees or students.

Section 15-78-60(25), provides that a governmental entity is not liable for a loss resulting from the entity’s exercise of a “responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student . . . *except when the responsibility or duty is exercised in a grossly negligent manner.*” (emphasis added). Gross negligence 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.” *Etheredge v. Richland Sch. Dist. One*, 341 S.C. 307, 310, 534 S.E.2d 275, 277 (2000); *Clyburn v. Sumter Cnty. Sch. Dist. No. 17*, 317 S.C. 50, 451 S.E.2d 885 (1994); *Richardson v. Hambright*, 296 S.C. 504, 374 S.E.2d 296 (1988). Gross negligence also has been defined as a failure to exercise even slight care. *Id.* While gross negligence is ordinarily a mixed question of law and fact, when, as here, the evidence supports but one reasonable inference, the question becomes a matter of law for the court. *Clyburn*, 317 S.C. at 53, 451 S.E.2d at 887. Further, a governmental entity need not “disprove” gross negligence or notice; the burden is on the plaintiff to prove gross negligence. *Stewart v. Richland Mem’l Hosp.*, 350 S.C. 589, 567 S.E.2d 510 (Ct. App. 2002). Finally, the fact that a school district could have done more will not negate the fact that it exercised slight care. *Etheredge*, 341 S.C. at 310, 534

S.E.2d at 277. The ultimate conclusion hinges on whether a school district “knew or should have known” of the need to exercise control over a given situation. *Moore v. Berkeley Cnty. Sch. Dist.*, 326 S.C. 584, 486 S.E.2d 9 (Ct. App. 1998).

a. The Court finds there is no genuine issue of material fact as to Plaintiffs’ grossly negligent hiring, retention, and supervision claim.

Plaintiffs’ theory of liability regarding claims involving Dowdell, Lee, Coleman, Doyles, and Luhrs is premised on the assertion that the District was grossly negligent in hiring, retaining and supervising these employees.² As noted above, Plaintiffs have not established a compensable SCTCA “loss” with regard to any action involving any of these District employees. They also cannot establish other elements of their gross negligence claim.

A negligent hiring, retention, or supervision claim seeks to hold an employer liable for a plaintiff’s compensable loss if it knows the employee is “in the habit of misconducting themselves in a manner dangerous to others.” *Doe v. ATC, Inc.*, 367 S.C. 199, 206, 624 S.E.2d 447, 450 (Ct. App. 2005). Thus, “such cases generally turn on two fundamental elements—knowledge of the employer and foreseeability of harm to third parties.” *Id.*

In response to the District’s Motion for Summary Judgment, Plaintiffs have not pointed to any information that any of the above District employees had a history of or proclivity toward any misconduct, such that the District can be held liable for their behavior. Both Plaintiffs testified they did not know anything about the hiring or retention of any of the District employees named

² Deputy Green is also included in Plaintiffs’ list. However, as noted above, it is undisputed that Deputy Green was an employee of the Florence County Sheriff’s Office. The District is not responsible for hiring, retaining, or supervising him.

in their Complaint. In sum, Plaintiffs have not demonstrated a genuine issue of material fact regarding any part of their gross negligence claim involving District employees.

b. The Court finds there is no genuine issue of material fact as to Plaintiffs' grossly negligent supervision claim related to the locker room incident.

Initially, Plaintiffs have not created a genuine issue of fact as to whether the locker room incident actually happened. As noted above, the only evidence in the record about what occurred in the locker room comes from M.Y.S. The record contains evidence showing that M.Y.S. has given conflicting statements as to whether this incident happened as he now claims. It is axiomatic that "[a] genuine issue of material fact is not created where the only issue of fact is to determine which of [several] conflicting versions of the plaintiff's testimony is correct." *Barwick v. Celotex Corp.*, 736 F.2d 946, 960 (4th Cir. 1984).

Additionally, Plaintiffs have not presented any evidence regarding the District's efforts at supervision in the locker room.³ In this case, the presence or absence of District employees in the locker room at the time is of no consequence because M.Y.S. testified that no one saw this "tussle" or *could have seen* it because the interaction, as M.Y.S. described it, arose spontaneously, was brief and minor, and the locker room was too crowded with students dressing out for practice.

Finally, Section 15-78-60(20), another SCTCA defense, shields the District from liability for a loss resulting from "an act or omission of a person other than an employee including but not limited to the criminal acts of third persons." Plaintiff Secka admitted in her deposition that the alleged attack was a criminal act by the boys involved. She also filed a police report.

³ The testimony by the Plaintiffs' expert opining generally that there should be adult supervision in the locker room might be relevant if there were any evidence regarding the District's supervision in the locker room and if M.Y.S. had not admitted that the incident would not have been visible to others in the locker room.

Immunity does not apply when the basis of the claim is that the gross negligence of the governmental entity or its employees “created a reasonably foreseeable risk of such third party conduct.” *Moore*, 326 S.C. at 590, 486 S.E.2d 12 (citing *Greenville Memorial Auditorium v. Martin*, 301 S.C. 242, 247, 391 S.E.2d 546, 549 (1990)). Here, however, Plaintiffs have not demonstrated a genuine issue of material fact tending to show that the District had prior notice of a situation that created a reasonably foreseeable risk of criminal acts. M.Y.S. has not asserted that he had any trouble with these students previously, nor did he complain about any prior incidents with other students in the locker room. Thus, Plaintiffs have not demonstrated any genuine issue of material fact regarding the locker room incident.

b. The Court finds there is no genuine issue of material fact as to Plaintiffs’ claim that the District’s failure to follow its policies led to the locker room incident.

To the extent Plaintiffs attempt to hold the District liable for some unidentified shortcomings in its policies, the SCTCA provides the District with immunity in that regard. Specifically, S.C. Code Ann. § 15-78-60(4) states that a governmental entity is not liable for a loss resulting from “adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation, or written policies.” Moreover, Plaintiffs have adduced no evidence regarding a lack of policies or a grossly negligent failure to enforce policies that led to any of the incidents in the Complaint.

3. The Court finds that Plaintiffs’ second cause of action asserting a breach of fiduciary duty must be dismissed as a matter of law.

Plaintiffs alleged that the District owed and subsequently breached a fiduciary duty to the Plaintiffs. This cause of action fails as a matter of law because South Carolina does not recognize

a fiduciary duty in a school-student setting. *See Doe v. Greenville Cnty School District*, 375 S.C. 63, 72, 651 S.E.2d 305, 309–10 (2007) (upholding the trial court’s dismissal of the plaintiffs’ cause of action for breach of fiduciary duty, as well as dismissal of the cause of action for breach of an assumed duty *in loco parentis*); *Hendricks*, 353 S.C. 449, 578 S.E.2d 711 (“We decline to recognize the relationship between advisor and student as a fiduciary one.”).

CONCLUSION

IT IS THEREFORE ORDERED that Defendant Florence School District One’s Motion for Summary Judgment is granted.

AND IT IS SO ORDERED

Honorable Michael G. Nettles
Twelfth Judicial Circuit

_____, 2024
Florence, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

IN Re: Hannah J. Secka, individually and as
parent and guardian for the minor, M.Y.S.,

Plaintiff(s),

v.

Florence County School District One and
Florence County Sheriff's Department,

Defendant(s).

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Civil Action No.: 2021-CP-21-02121

PROPOSED ORDER

This matter comes before the Court upon Plaintiffs' Rule 59(e) and Rule 60(b) Motion for Reconsideration of the Court's March 5, 2024 Order Granting Defendant Florence County School District One's Motion for Summary Judgment. A hearing was held on this matter on August 21, 2024. Darryl Caldwell of Caldwell Law Firm, LLC appeared on behalf of Plaintiffs, Hannah J. Secka, individually and as parent and guardian of MYS. Meredith L. Seibert, of Duff Freeman Seibert, L.L.C., appeared on behalf of Florence County School District One (Defendant District). After reviewing the pleadings, the prior order, the motion for reconsideration, the parties' memoranda, the arguments of counsel, and relevant case law, the Court denies Plaintiffs' Motion for Reconsideration of the order granting Defendant District summary judgment.

I. LEGAL STANDARD

Rule 59(e), SCRCP provides a mechanism for a party to request that a court review a prior order. A party *may* wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument

has been raised, but not ruled on, in order to preserve it for appellate review. *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004). The rule itself does not provide any further standards, and South Carolina case law, absent the guidance as to when to file, is also lacking in this regard. However, "Rule 59(e) in the South Carolina and federal rules of civil procedure is practically identical." *Id.* at 22, 602 S.E.2d at 779. Thus, when considering a Rule 59(e) motion to dismiss, our courts may look to the Federal Rules of Civil Procedure for guidance on the applicable standard. See *Gardner v. Newsome Chevrolet-Buick, Inc.*, 304 S.C. 328, 330, 404 S.E.2d 200, 201 (1991) ("Since our Rules of Procedure are based on the Federal Rules, where there is no South Carolina law, we look to the construction placed on the Federal Rules of Civil Procedure."). The Fourth Circuit Court of Appeals has laid out three grounds that might justify amending an earlier judgment: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." *Pacific Ins. Co. v. Am. Nat. Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998). "To qualify for reconsideration under the third exception, an order cannot merely be 'maybe or probably' wrong; it must be 'dead wrong,' so as to strike the Court 'with the force of a five-week-old, unrefrigerated dead fish.'" *United States v. Mooney*, 2023 WL 3026316, at *3 (D.S.C. Apr. 20, 2023) (quoting *TFWS, Inc. v. Franchot*, 572 F.3d 186, 194 (4th Cir. 2009)).

In their motion for reconsideration, Plaintiffs allege that they are entitled to relief pursuant to Rule 59(e) on the grounds that they believe the Court's Order failed to recognize there was a genuine issue of material fact as to the "loss" suffered by Plaintiffs, including a loss resulting from reckless infliction of emotional harm, and failed to fully consider the expert testimony of Dr. Sterling Harris presented by Plaintiff as to violation of District policies.

II. LAW/ANALYSIS

A. Plaintiffs Are Not Entitled to Relief Pursuant to Rule 59(e), SCRCP – Motion to Alter to Amend a Judgment

1. **Plaintiffs have failed, as a matter of law, to establish a compensable loss under the Tort Claims Act regarding the actions of District employees.**

Plaintiffs assert that there is a genuine issue of fact as to whether M.Y.S. suffered a “loss” as defined by the Tort Claims Act (“TCA”). Plaintiffs focus on only two of the several incidents raised in their Complaint: the incident when M.Y.S.’s 8th grade English teacher, Ms. Luhrs, wrote on his arm with a Sharpie (the “Sharpie incident”), and the incident when M.Y.S. was in high school and alleges he was “attacked” in the locker room (the “locker room incident”).

Regarding the Sharpie incident (as well as the other instances of alleged bullying, intimidation, and harassment by other District employees), the Court correctly determined that Plaintiffs failed, as matter of law, to establish a compensable TCA “loss.” The Court correctly determined that M.Y.S. suffered no physical injury from the Sharpie incident, but rather claimed only emotional distress. The arguments in Plaintiffs’ Motion In Opposition to Summary Judgment reiterate this point, stating: “M.Y.S. testified on multiple occasions he was *made uncomfortable* when he was touched without his consent or permission by Kathy Luhrs.” Motion in Opposition, p. 3 (emphasis added). Being “made uncomfortable” does suffice for emotional harm and makes clear there was no physical injury such that Plaintiffs can establish a viable TCA loss. Moreover, as addressed in the original order and in more detail below, Plaintiffs have failed to establish a compensable Tort Claims Act “loss” under any theory related to the infliction of emotional distress.

The other incident that Plaintiffs cite – the “tussle” in the locker room – was not decided on the basis of whether there was a TCA “loss.”¹ Rather, the Plaintiffs failed to establish a genuine issue of material fact that the District was grossly negligent as to the supervision of its employees or students under any of the various theories alleged. As noted in the original order, Plaintiffs have not created a genuine issue of fact as to whether the locker room incident actually happened. The only evidence in the record about what occurred in the locker room comes from M.Y.S. The record contains evidence showing that M.Y.S. has given conflicting statements as to whether this incident happened as he now claims. It is axiomatic that “[a] genuine issue of material fact is not created where the only issue of fact is to determine which of [several] conflicting versions of the plaintiff’s testimony is correct.” *Barwick v. Celotex Corp.*, 736 F.2d 946, 960 (4th Cir. 1984). However, what was clear in the record was that Plaintiffs failed to establish a genuine issue of material fact tending to show that the District was grossly negligent as to the supervision of its employees or students, including in the locker room under several theories. Although this Court considered the testimony of Plaintiff’s expert regarding general standards and expectations, the reality is that Plaintiffs presented no evidence regarding the level of supervision in the locker room. Even if they had, MYS testified to circumstances that no one had seen the “tussle” nor could they have.

¹ Although not dispositive, to the extent a finding is warranted, this Court finds that Plaintiffs failed to establish a genuine issue of material fact as to whether MYS suffered a loss during the alleged “tussle” in the locker room. The only evidence in the record of that the incident even occurred is four conflicting statements of MYS. See *Barwick v. Celotex Corp.*, 736 F.2d 946, 960 (4th Cir. 1984).

2. Plaintiffs have failed, as a matter of law, to establish a cause of action for emotional distress caused by the District's "extremely reckless" conduct.

The Court previously found that Plaintiffs had not established compensable instances of emotional distress, nor had they established a cause of action for negligent infliction of emotional distress. However, Plaintiffs assert that the Court erred by failing to consider Plaintiff "pled facts sufficient to establish sufficient to establish damages for emotional distress because a reasonable jury could find the conduct of District employees to be "extremely reckless," thus alleging that the Court erred by not allowing them to proceed on this claim. (Plaintiffs' Memo In Support of Motion for Reconsideration p. 5). However, the South Carolina Supreme Court case law confirms that reckless infliction of emotional distress is not a "loss" actionable under the TCA. See *Gore v. Dorchester County Sheriff's Office*, 442 S.C. 438; 900 S.E.2d 423 (2024)

In *Gore*, the Supreme Court answered the following certified question from the United States District Court: "Does the bar under the South Carolina Tort Claims Act of claims of "intentional infliction of emotional harm," S.C. Code [Ann.] § 15-7830(f), apply to claims of reckless infliction of emotional distress?" The court answered this question in the affirmative. Initially, the court held that "[r]eckless infliction of emotional distress is merely a subset of intentional infliction of emotional distress [and] there is no separate cause of action in South Carolina for the reckless infliction of emotional distress." *Id.* at 13. The court further ruled that reckless intentional infliction of emotional distress is not a loss under the TCA

Thus, the Court reaffirms its finding that Plaintiffs have failed to establish a compensable Tort Claims Act "loss" under any theory related to the infliction of emotional distress.

3. Plaintiffs have failed, as a matter of law, to establish Tort Claim Act liability based on an alleged violation of District policy.

Plaintiffs assert that the Court failed to fully consider the expert testimony provided by Plaintiff's expert witness, Dr. Harris. As a result, Plaintiffs' Motion for Reconsideration was accompanied by a "clarifying" affidavit further specifying that District personnel violated District policy JICRAA-R and GBEB based on the English teacher's actions (writing on MYS' arm).

As an initial matter, the "clarifying affidavit" is not proper and cannot be considered as part of Rule 59(e) Motion for Reconsideration. This additional evidence Plaintiff has presented as part of the Rule 59(e) motion was available and could have been presented when they filed their response in opposition to the Defendant District's Motion for Summary Judgment. However, they chose to focus on other aspects of Mr. Harris' testimony and opinions. See *Hickman v. Hickman*, 301 S.C. 455, 456, 392 S.E.2d 481, 482 (Ct. App. 1990)(A party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not); *Green v. Johnson*, 2024 WL 180690 (Ct. App. 2024)(master erred in considering evidence presented for the first time during a hearing on Rule 59(e) motion); *Spreeuw v. Barker*, 385 S.C. 45, 68-69, 682 S.E.2d 843 (Ct. App. 2009)(court could not consider document that was submitted to the family court only as an attachment to Rule 59(e) motion.

However, even if this Court were to consider and adopt the conclusions in the clarifying affidavit, Plaintiffs' have still failed to establish a recoverable claim pursuant to the Tort Claims Act. In fact, the Tort Claims Act provides a governmental entity is not liable for a loss resulting from "adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation, or written policies." S.C. Code Ann. § 15-78-60(4). The affidavit of Plaintiff's

expert witness serves only to establish an additional affirmative defense for Defendant District had there been a loss associated with the English teacher's action, which there was not.

B. Plaintiffs Are Not Entitled to Relief Pursuant to Rule 60(b), SCRCP - Relief from Judgment or Order

Although the majority of Plaintiffs' memorandum and arguments were premised on Rule 59(e), SCRCP, Counsel for Plaintiffs' motion was also brought pursuant to Rule 60(b), SCRCP. "A party seeking to set aside a judgment pursuant to Rule 60(b) has the burden of presenting evidence entitling him to the requested relief." *Perry v. Heirs at Law of Gadsden*, 357 S.C. 42, 46, 590 S.E.2d 502, 504 (Ct.App.2003). Rule 60(b) provides that "the court may relieve a party or his legal representative from a final judgment, order, or proceeding" for one of five listed reasons, to include: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud, misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application. In their memorandum and in the course of arguments, Plaintiffs did not specify which of the five grounds entitled them to relief. In the complete absence of any facts or arguments that could reasonably support the contention that Rule 60(b)(1) and (3)-(5) are applicable, this Court considered whether Plaintiffs were entitled to relief pursuant to Rule 60(b)(2), to include consideration of the "clarifying affidavit" submitted by Plaintiffs with their Motion for Reconsideration.

Plaintiffs rely heavily on the "clarifying affidavit" submitted with their Motion for Reconsideration, asserting that if the affidavit cannot be considered as part of a Rule 59(e) Motion

for Reconsideration, Rule 60(b) permits such an affidavit to establish the grounds for relief. However, the standards for new evidence is generally the same for Rule 59(e) and Rule 60(b) motions. See *Fassett v. Evans*, 364 S.C. 42, 40, 610 S.E. 2d 841, 846 (Ct. App. 2005)(court did not abuse discretion in denying Rule 60(b) motion where new evidence included in affidavits was known to and available to movant at time of final order).

However, even after consideration of the affidavit, Plaintiffs have failed to establish a basis for relief pursuant to Rule 60(b)(2). As noted above, Rule 60(b)(2), SCRCP, states that “On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: ... (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b). The term “newly discovered evidence” is a term of art and refers to evidence which existed at the time of the final judgment, order, or proceeding but which had not been discovered by the proponent of the Rule 60(b)(2) motion. *Crawford v. Celanese Corp.*, No. 2017-CP-42-04429, 2019 WL 11276400, at *2 (S.C.Com.Pl. Nov. 25, 2019). To obtain a new trial based on newly discovered evidence, a movant must establish that the newly discovered evidence: (1) will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial; (4) is material to the issue; and (5) is not merely cumulative or impeaching.”). *Jamison v. Ford Motor Co.*, 373 S.C. 248, 272, 644 S.E.2d 755, 767 (Ct. App. 2007); *Lanier v. Lanier*, 364 S.C. 211, 217, 612 S.E.2d 456, 459 (Ct.App.2005). However, Plaintiffs have not established the existence of newly discovered evidence, through the affidavit or otherwise. Our courts are clear that evidence is not newly discovered evidence for the purposes of Rule 60(b)(2) where the evidence was (1) known to the party at the time of trial, and

(2) in the party's possession. *Lanier* at 218, 612 S.E.2d at 459. See *Fassett v. Evans* at 50 (noting the difference between newly discovered evidence and newly presented evidence). In addition, Rule 60(b)(2) allows the court to grant a new trial only if the newly discovered evidence could not have been discovered by due diligence prior to trial. *Jamison v. Ford Motor Co.*, 373 S.C. 248, 272, 644 S.E.2d 755, 767 (Ct. App. 2007).

Based on the standards established by South Carolina courts, the information contained in the affidavit is not newly discovered evidence for purposes of Rule 60(b)(2). Here, though the affidavit was completed on March 13, 2024, shortly after this Court's Order granting Defendant District summary judgment, the information was known to and readily available to the Plaintiffs at the time of the original motion and Plaintiff's response. In fact, Plaintiffs' own memorandum references that Dr. Harris testified to the same conduct and alleged policy violation in both his deposition and original affidavit that is referenced in the clarifying affidavit. See Plaintiffs' Memorandum in Support of Motion for Reconsideration p. 5. The information he shared and the basis for same is merely newly presented, not newly discovered. Therefore, Plaintiffs have failed to present evidence that entitles them to relief pursuant to Rule 60(b)(2) due to newly discovered evidence.

III. CONCLUSION

Accordingly, after due deliberation, review of the pleadings, the prior order, the motion for reconsideration, the parties' memoranda, the arguments of counsel, and relevant case law, Plaintiff's Motion for Reconsideration is denied.

IT IS SO ORDERED.

Honorable Michael G. Nettles
Twelfth Judicial Circuit

September __, 2024
Florence, South Carolina

RECEIVED

Sep 16 2024

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Hon. Michael G. Nettles, 12th Circuit Court Judge

Case No. 2021-CP-21-02121

Hannah Secka, Individually, and as parent and guardian of (M.Y.N.S.)

Plaintiff/Appellants

v.

Florence School District One (FSD1)

Florence County Sheriff Department (FCSO)

Defendant/Respondents

NOTICE OF APPEAL

I, Hannah L. Secka pro se litigant Appeal the Summary Judgment GRANTED to FSD1 on March 5, 2024, and Motion for Reconsideration filed on March 14, 2024, and DENIED on September 4, 2024, by Judge Michael G. Nettles. Hannah L. Secka (Plaintiff) received written notice of the entry of the order on September 4, 2024, from the Florence Public Index. Attorney Darryl C. Caldwell is refusing to supply me with his Motion to Withdraw from Judge Nettles. I terminated Mr. Caldwell on September 4, 2024 as legal counsel due to legal malpractice.

Hannah L. Secka
Pro se litigant
503 W. Darlington St. #B
Florence, SC 29501
843 407 8867
hannsc2@aol.com

Duff, Lyons, and Freeman Law Firm
David Lyons and Meredith Seibert, Esq.
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Columbia, SC 29211
(803) 254-4035
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Date: September 4, 2024
Resubmitted 9/16/2024

RECEIVED

Sep 16 2024

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Hon. Michael G. Nettles, 12th Circuit Court Judge

Case No: 2021-CP-21-02121

Hannah Secka and (M.Y.N.S.)
Plaintiffs

vs.

Florence School District One et. al.
Defendants

Proof of Certificate of Service

I hereby certify that a true and correct copy of the Notice of Appeal was served upon the following by electronic mail and USPS on September 4, 2024, and Darryl C. Caldwell, Esq. (Plaintiff Counsel (Terminated) as counsel for Hannah L. Secka and (M.Y..NS.).

Darryl C. Caldwell, Esq. dcaldwell@dcauldwelllawfirm.com (Terminated by Client)

David T. Duff, Esq. Defense Counsel dduff@dt's.com

Meredith L. Seibert, Esq. Defense Counsel mseibert@dl's-lawfirm.com

David Nelson Lyon, Esq. Defense Counsel (Resigned form Case)

Signed this 4th Day of September:

/s/ Hannah L. Secka

Hannah L. Secka (pro se litigant)

Via Electronic Signature

REVISED/AMENDED: September 16, 2024

SOUTH CAROLINA POWER OF ATTORNEY

DESIGNATION OF AGENT

I, Mowden-Yaseri Secka [Principal name] of Hannah L. Secka
[Address], authorize 503 W. Darlington St [Agent name] of
Florence SC 29501 [Address], as my agent (attorney-in-fact) to act for me
and in my name, and stead, and for my use and benefit. If my agent is unable or unwilling to act for me, I
name Hannah Secka [Successor name] of
503 W. Darlington St Florence, SC [Address], as my successor agent.

(Check if applicable. Strike out if not)

☐ I hereby give notice that I have revoked, and do hereby revoke, any previous power of attorney given or
empowering another agent to act as my true and lawful attorney in fact. I declare that all power and
authority granted under said power of attorney is hereby revoked and withdrawn.

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following
subjects:

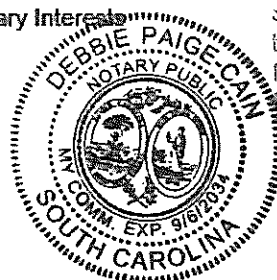
INITIAL each subject you want to include in the agent's general authority.

INITIAL the line in front of "(N) All Preceding Subjects" if you wish to grant general authority over all of the
subjects instead of initialing each subject.

- ____ (A) Real property
- ____ (B) Tangible personal property
- ____ (C) Stocks and bonds
- ____ (D) Commodities and options
- ____ (E) Banks and Other Financial Institutions
- ____ (F) Operation of Entity or Business
- ____ (G) Insurance and Annuities
- ____ (H) Estates, Trusts, and Other Beneficiary Interests
- ✓ (I) Claims and Litigation

Hannah L. Secka 9/16/2025

Mowden-Yaseri Secka 6/16/2025



Sworn to and subscribed before me
this 16th day of June, 2025
Notary Public for South Carolina
My commission expires 9/16/2024



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF FLORENCE	)	TWELFTH JUDICIAL CIRCUIT
	)	
IN Re: Hannah J. Secka, individually and	)	CIVIL ACTION NO: 2021-CP-21-__
as parent and guardian for the minor	)	
M.Y.S.,	)	
	)	
Plaintiffs,	)	
	)	SUMMONS
	)	(Jury Trial Requested)
vs.	)	
	)	
	)	
FLORENCE COUNTY SCHOOL	)	
DISTRICT ONE and FLORENCE	)	
COUNTY SHERIFF'S DEPARTMENT,	)	
	)	
Defendants.	)	
	)	

TO: THE ABOVE-NAMED DEFENDANTS, FLORENCE COUNTY SCHOOL DISTRICT ONE AND FLORENCE COUNTY SHERIFF'S DEPARTMENT:

YOU ARE HEREBY SUMMONED and required to answer in writing the Plaintiffs' Complaint, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Complaint, upon Attorney Darryl C. Caldwell, Esquire, of the Caldwell Law Firm. LLC, 140 Wildewood Park Drive, Palmetto Suite 103, Columbia, South Carolina 29223, within thirty (30) days after the service hereof, exclusive of the day such service, and, if you fail to Answer said Complaint with the time aforesaid, a default judgment may be entered against you for the relief demanded in the said Complaint.

Respectfully submitted,

/s/Darryl C. Caldwell
 CALDWELL LAW FIRM
 140 Wildewood Park Drive, Palmetto Suite 103,
 Columbia, South Carolina 29223
 (803) 542-0431 (O) / (803) 419-8787 (F)

ATTORNEY FOR PLAINTIFFS

September 29, 2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF FLORENCE	)	TWELFTH JUDICIAL CIRCUIT
	)	
	)	CIVIL ACTION NO: 2021-CP-21-_____
IN Re: Hannah J. Secka, individually and	)	
as parent and guardian for the minor	)	
M.Y.S.,	)	COMPLAINT
	)	(Jury Trial Requested)
Plaintiffs,	)	
	)	
	)	
vs.	)	
	)	
	)	
FLORENCE COUNTY SCHOOL	)	
DISTRICT ONE and FLORENCE	)	
COUNTY SHERIFF'S DEPARTMENT,	)	
	)	
Defendants.	)	
	)	

TO: THE ABOVE-NAMED DEFENDANTS, FLORENCE COUNTY SCHOOL DISTRICT ONE AND FLORENCE COUNTY SHERIFF'S DEPARTMENT:

COME NOW, the Plaintiffs, Hannah J. Secka, individually and as parent and guardian for the minor child, M.Y.S., complaining of the acts and /or omissions of the Defendants, FLORENCE COUNTY SCHOOL DISTRICT ONE and FLORENCE COUNTY SHERIFF'S DEPARTMENT would allege and show through undersigned counsel unto this Honorable Court the following:

JURISDICTION AND VENUE

1. That this action is brought pursuant to, *inter alia*, South Carolina Code §§ 15-78-10, *et seq.*, and arises out of the grossly negligent hiring, retention, and supervision of Defendant FLORENCE COUNTY SCHOOL DISTRICT ONE'S agents, apparent agents, and/or employees, Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, Lisa Doyles, and Defendant FLORENCE COUNTY SHERIFF'S DEPARTMENT'S agents, apparent agents, and/or employee Deputy Jablonski Green, as set forth herein, and out of the grossly negligent failure to supervise and control the employees, harmful as well as the grossly negligent, and reckless hiring, retention, and supervision of personnel and grossly negligent supervision of its classrooms by the Defendant.

2. That the parties hereto, subject matter hereof, and all matters and things hereinafter alleged are within the jurisdiction of this Honorable Court; as the incidents giving rise to this cause of action occurred in Florence County, South Carolina and that this Court is the proper

venue for this action.

3. That at all relevant times herein mentioned, the Safe Schools Act of 1990, S.C. Code Ann §59-5-10, *et seq.*, was promulgated to provide for, *inter alia*, a safe learning environment for students at South Carolina's schools; and that,

- a. An essential purpose of S.C. Code Ann §59-5-10, *et seq.*, is to protect against a particular kind of harm, namely violence of any kind perpetrated upon students at South Carolina Schools;
- b. S.C. Code Ann § 59-5-10, *et seq.*, either directly or indirectly, imposes on a specific public officer(s), namely the Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE, a legal duty to guard against or not cause harm;
- c. The class of persons S.C. Code Ann § 59-5-10, *et seq.*, intends to protect are students at South Carolina Schools;
- d. The minor child herein, M.Y.S., as a student at Sneed Middle School and West Florence High School, is a person within the class protected by S.C. Code Ann § 59-5-10, *et seq.*;
- e. The Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE, knew or had reason to know of the likelihood of harm to members of the class if it failed to do their duty; and,
- f. The Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE, was given sufficient authority to act in the circumstances of which they undertook to act in the exercise of their respective office(s).

PARTIES

A. Plaintiffs

4. That the Plaintiff, Hannah J. Secka, individually and as parent and guardian for the minor child, M.Y.S., a child under the age of eighteen (18), are now citizens and residents of the State of South Carolina; but that said Plaintiffs were, at all times material hereto, citizens and residents of the County of Florence, State of South Carolina.

5. That the student and minor child herein, M.Y.S. was, at all times material hereto, a student at either Sneed Middle School or West Florence High School, located in the County of Florence, State of South Carolina; and that the student and minor child herein, M.Y.S., at all times material hereto, was a student in the schools operated by the Defendant FLORENCE COUNTY SCHOOL DISTRICT ONE and under the District's control and supervision.

B. Defendants

6. That, upon information and belief, the Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE, is now and was, at all times material hereto, an agency, political subdivision,

and/or governmental entity within the meaning of the South Carolina Tort Claims Act, S.C. Code Ann § 15-78-30, *et seq.*, operating in the County of Florence, State of South Carolina.

7. That, Defendant FLORENCE COUNTY SHERIFF'S DEPARTMENT, is now and was at all times material hereto, an agency, political subdivision, and/or governmental entity operating in the County of Florence and organized and created pursuant to the laws of the State of South Carolina and a governmental entity within the meaning of the South Carolina Tort Claims Act, S.C. Code Ann § 15-78-30, *et seq.*, operating in the County of Florence, State of South Carolina.

8. That Defendant FLORENCE COUNTY SHERIFF'S DEPARTMENT is responsible for policies, practices, and customs of Florence County Sheriff's Department, as well, as the hiring, training, supervising, controlling, and disciplining of its deputies and other employees.

9. That, as described herein, Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, Lisa Doyles, and Deputy Jablonski Green, were agents, apparent agents, and/or employees of the Defendant FLORENCE COUNTY SCHOOL DISTRICT ONE, and harmed the student and minor child M.Y.S. at Sneed Middle School and West Florence High School, premises owned and/or operated by the Defendant FLORENCE COUNTY SCHOOL DISTRICT ONE; that, as described herein, the Defendant FLORENCE COUNTY SCHOOL DISTRICT ONE, knew or had reason to know that it had the ability to control and supervise its employees, at all times material hereto; and that the Defendant FLORENCE COUNTY SCHOOL DISTRICT ONE, knew or should have known, at all times material hereto, of the necessity and opportunity for exercising such control over its employees above named.

10. That, as described herein, Deputy Jablonski Green, was the School Resource Officer assigned to West Florence High School and at all time relevant herein was acting in his official capacity as a deputy sheriff and employee of Defendant FLORENCE COUNTY SHERIFF'S DEPARTMENT and harmed the student and minor child M.Y.S. at West Florence High School, premises owned and/or operated by Defendant FLORENCE COUNTY SCHOOL DISTRICT ONE; that, as described herein, Defendant FLORENCE COUNTY SHERIFF'S DEPARTMENT, knew or had reason to know that it had the ability to control and supervise its employee, at all times material hereto; and that the Defendant FLORENCE COUNTY SHERIFF'S DEPARTMENT, knew or should have known, at all times material hereto, of the necessity and opportunity for exercising such control over its employee above named.

FACTUAL BACKGROUND

Generally

11. That, before, on, and/or about September 2017, Kathy Luhrs was employed by the Defendant FLORENCE COUNTY SCHOOL DISTRICT ONE, and worked at Sneed Middle School, at all times material hereto, under the control and supervision of FLORENCE COUNTY SCHOOL DISTRICT ONE.

12. That before, on, and/or about August 2018 through May 2020, Matthew Dowdell, Jeff

Lee, Christopher Coleman, Lisa Doyles were employed by Defendant FLORENCE COUNTY SCHOOL DISTRICT ONE and worked at West Florence High School, at all times material hereto, under the control and supervision of Defendant FLORENCE COUNTY SCHOOL DISTRICT ONE.

13. That, before, on and/or about August 2018 through May 2020, Deputy Jablonski Green was employed by Defendant FLORENCE COUNTY SHERIFF'S DEPARTMENT and was assigned as the School Resource Officer at West Florence High School by the express approval and consent through a Memorandum of Understanding between Defendant FLORENCE COUNTY SCHOOL DISTRICT ONE and Defendant FLORENCE COUNTY SHERIFF'S DEPARTMENT.

14. That Deputy Jablonski Green, served as a school resource officer, assigned to West Florence High School and at all time relevant, herein, acting in his official capacity and under the color of State law, as a deputy sheriff and employee under the control and supervision of Defendant FLORENCE COUNTY SHERIFF'S DEPARTMENT, as well as a school resource officer for West Florence High School under the concurrent control of Defendant FLORENCE COUNTY SCHOOL DISTRICT ONE.

15. That the student and minor child, M.Y.S. was during the school year academic school year 2017-2018, and academic school year 2018-2019 of school age and a student at Sneed Middle School and West Florence High School in FLORENCE COUNTY SCHOOL DISTRICT ONE.

16. That on or about May 29, 2018, Kathy Luhrs wrote on the student and minor child, M.Y.S. with a black chemical marker an obscene phrase without the student and minor child, M.Y.S.'s consent authorization.

17. That on or about October 17, 2018, student and minor child, M.Y.S. was attacked by several students in West Florence High School's athletic locker room resulting in physical injuries to his face and back.

18. That on various occasions, during the academic school year 2018-2019, Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyles threatened, bullied, intimidated and, harassed the student and minor child, M.Y.S.

19. That on or about October 15, 2019, Deputy Jablonski Green was physically restrained by colleagues as he harassed, bullied, and assaulted the student and minor child, M.Y.S. while conducting an unauthorized interrogation of student and minor child, M.Y.S. on the premises of West Florence High School.

20. That administrators, other officials, and teachers employed by the Defendants, FLORENCE COUNTY SCHOOL DISTRICT ONE and FLORENCE COUNTY SHERIFF'S DEPARTMENT knew or had reason to know that student and minor child, M.Y.S. was being assaulted and harassed, bullied, and intimidated and that the administrators, other officials, and teachers employed at West Florence High School knew or should have known of the

inappropriate, violent, dangerous, and destructive acts.

FOR A FIRST CAUSE OF ACTION
(Gross Negligence and Recklessness)
(As to all Defendants)

21. That the Plaintiffs incorporate and make part of this First Cause of Action, Paragraphs One (1) through twenty (20) verbatim as if set forth herein.

22. That Defendants, FLORENCE COUNTY SCHOOL DISTRICT ONE, and FLORENCE COUNTY SHERIFF'S DEPARTMENT owed duties to the Plaintiff and the student and minor child, M.Y.S. herein, including but not limited to, a duty to exercise due and reasonable control and care in the hiring and supervision of personnel to act as staff, teachers and administrators at Sneed Middle School and West Florence High School, and a duty to exercise due and reasonable control and care in the supervision of the student and minor child M.Y.S. herein, as a student at Sneed Middle School and West Florence High School; and that Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE and FLORENCE COUNTY SCHOOL SHERIFF'S DEPARTMENT breached these duties by grossly negligent hiring, retention, and supervision.

23. That, upon information and belief, the damages suffered by Plaintiffs herein were due to and caused by and were the direct and proximate result of the gross negligence of the Defendants, FLORENCE COUNTY SCHOOL DISTRICT ONE, and FLORENCE COUNTY SHERIFF'S DEPARTMENT and that the Defendants was guilty of gross negligence, carelessness, recklessness, in one or more of the following particulars,

- a. In failing to comply with the provisions of the Safe Schools Act of 1990. S.C. Code Ann § 59-5-10, *et. seq.*, of the South Carolina Code of Laws, as amended;
- b. In being grossly negligent in the hiring of Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, Lisa Doyles, and Deputy Jablonski Green when the Defendant knew, had reason to know, or in the exercise of due care should have known, that these employees posed a serious threat of abuse and physical, mental and emotional harm to students making up the student body of Sneed Middle School and West Florence High School, and more particularly to the minor child herein;
- c. In being grossly negligent in the retention of, Katy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, Lisa Doyles, and Deputy Jablonski Green when the Defendant knew, had reason to know, or in the exercise of due care should have known, that they, posed a serious threat of abuse and physical, mental, and emotional harm to children making up the student body of Sneed Middle School and West Florence High School, and more particularly to the minor child herein;
- d. In failing to follow their school code of conduct for the Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE, which sets forth that each student has, *inter alia*;

- e. In failing to follow their harassment policies as set forth by the Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE;
- f. In being grossly negligent in the supervision of Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, and Deputy Jablonski Green when the Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE, knew had reason to know, or in the exercise of due care should have known, that Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, Lisa Doyles, and Deputy Jablonski Green posed a serious threat of abuse and physical, mental and emotional harm to children making up the student body of Sneed Middle School and West Florence High School, and more particularly to the minor child herein;
- g. In being grossly negligent in the supervision of the minor child herein, when the Defendant knew, had reason to know, or in the exercise of due care should have known, that, Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, Lisa Doyles, and Deputy Jablonski Green posed a serious threat of abuse and physical, mental, and emotional harm to children making up the student body of Sneed Middle School and West Florence High School, and more particularly to the minor child herein;
- h. In failing to recognize and adhere to the heightened standard of care with regard to students at West High School, and more particularly the minor child herein; and in failing to recognize that the conduct, acts, and/or omissions of the agent and/or employees involved an enhanced risk of harm to the minor child herein:
 - i. Each student has a right to be treated fairly and with kindness;
 - ii. Each student has the right to be safe and protected;
 - iii. Each student has the right to be respected as an individual;
 - iv. Each student has the right to a healthy environment to learn.
- i. In failing to timely and appropriately investigate and respond to the violent and abusive acts of various students, and more particularly, in failing to take adequate precautions to protect the minor child herein from physical, mental, and/or emotional harm;
- j. In failing to investigate, supervise, and control, Ms. Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, Lisa Doyle, and Deputy Jablonski Green after learning from the parent(s) and/or other school personnel of your employees' inappropriate behavior and unauthorized, unsupervised contact with the minor child herein;
- k. In failing to exercise a slight degree of care in the control, management, and supervision of Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, Lisa Doyle, and Deputy Jablonski Green;
- l. In failing to control, manage, and supervise its agent and/or employees, Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, Lisa Doyle, and Deputy Jablonski

Green employees, entrusted by parents for the care and education of their minor children and more particularly to the minor child herein;

- m. In failing to exercise a slight degree of care in the control, management, protection and supervision of the minor child herein; and,
- n. In failing to control, manage, protect and supervise the minor child herein, a student required by law to attend classes at West Florence High School.

24. That by reason of the gross negligence of the Defendants, FLORENCE COUNTY SCHOOL DISTRICT ONE, and FLORENCE COUNTY SHERIFF'S DEPARTMENT as a direct and proximate result thereof, the Plaintiffs has been damaged, both mentally and physically including but not limited to the following:

- a. The Plaintiffs herein suffered, and will probably continue to suffer physical pain, emotional distress, and impairment of their enjoyment of living;
- b. The Plaintiffs herein have incurred substantial medical, hospital, psychological and/or psychiatric expenses and will likely incur substantial expenses for medical and psychiatric and/or psychological care and treatment in the future;
- c. The Plaintiffs herein have suffered and will most probably continue to suffer from emotional distress, anxiety, and mental anguish for the rest of their lives; and,
- d. The Plaintiffs herein have been injured in other ways, all to their substantial detriment, and damaged in the amount to be determined by the Trier of fact.

25. That the Plaintiffs seek actual and punitive damages from Defendants, FLORENCE COUNTY SCHOOL DISTRICT ONE and FLORENCE COUNTY SHERIFF DEPARTMENT in an amount to be determined by a jury, together with the cost and disbursements of this action.

FOR A SECOND CAUSE OF ACTION

(Breach of Fiduciary Duty)

(As to DEFENDANT FLORENCE COUNTY SCHOOL DISTRICT ONE)

26. That the Plaintiffs incorporate and make part of this Second Cause of Action, Paragraphs One (1) through twenty-five (25) verbatim as if set forth herein.

27. That the Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE, owed a fiduciary duty to Plaintiff herein, as Plaintiff reposed special confidence in Defendant for the care and custody of the student and minor child, herein, M.Y.S. and said Defendant was bound to act in good faith and with due regard to the interests of the Plaintiffs.

28. That, upon information and belief, the damages suffered by Plaintiffs and the minor child herein were due to, caused by, and were the direct and proximate result of, the breach of fiduciary duty by the Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE, in one or

more of the following particulars:

- a. In grossly failing to properly warn Plaintiffs of the dangerous conditions about Defendant's premises created by its employees;
- b. In grossly failing to take reasonable precautions to protect the minor child herein of dangerous situations which they knew or should have known existed;
- c. In grossly creating dangerous situations without taking reasonable precautions;
- d. In grossly failing to take appropriate employment, administrative, and supervisory measures to protect the minor child herein;
- e. In grossly failing to provide adequate supervision over Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyles;
- f. In retaining Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyle as employees and allowing them to continue as employees;
- g. In grossly permitting them to have access to the minor child herein;
- h. In keeping the information acquired secret and making it unavailable to Plaintiffs;
- i. In grossly failing to provide adequate security to prevent harm from being done to the minor child herein;
- j. In grossly failing to provide adequate supervision and control over the staff, teachers, and administration;
- k. In grossly failing to adequately investigate Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyle before and during their employment with Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE;
- l. In grossly failing to protect the minor child herein;
- m. In grossly failing to act as a reasonable and prudent entity would have done under the same or similar circumstances then and there existing;
- n. In failing to follow their own school code of conduct for the Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE, which sets forth that each student has, *inter alia*, the following rights:
 - i. Each student has the right to be treated fairly and with kindness;
 - ii. Each student has the right to be safe and protected;
 - iii. Each student has the right to be respected as an individual;
 - iv. Each student has the right to a healthy environment to learn.

- o. In failing to follow their own policies as set forth by the Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE; and,
- p. In other ways to be proven at the trial of this case.

29. That by reason of the Breach of Fiduciary Duty by the Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE, and as a direct and proximate result thereof, the Plaintiffs have been damaged both mentally and physically including but not limited to the following:

- a. The Plaintiffs herein suffered, and will probably continue to suffer physical pain, emotional distress, and impairment of their enjoyment of living;
- b. The Plaintiffs herein have incurred substantial medical, hospital, psychological and/or psychiatric expenses and will likely incur substantial expenses for medical and psychiatric and/or psychological care and treatment in the future;
- c. The Plaintiffs herein have suffered and will most probably continue to suffer from emotional distress, anxiety, and mental anguish for the rest of their lives; and,
- d. The Plaintiffs herein have been injured and damaged in other ways, all to their substantial detriment, and damaged in an amount to be determined by a jury.

30. That the Plaintiffs seek actual and punitive damages against the Defendant, FLORENCE COUNTY SCHOOL DISTRICT ONE, for this Breach of Fiduciary Duty in an amount to be determined by a jury together with the costs and disbursements of this action.

RESERVATION OF ADDITIONAL CAUSES OF ACTION

31. That the Plaintiffs incorporate and make part of this Second Cause of Action, Paragraphs One (1) through Thirty-One (31) verbatim as if set forth herein.

32. Plaintiffs reserve the right to amend their pleadings as necessary to assert any additional causes of action revealed during the discovery process.

33. That Plaintiffs are entitled to actual and punitive damages from Defendants, FLORENCE COUNTY SCHOOL DISTRICT ONE and FLORENCE COUNTY SHERIFF'S DEPARTMENT, in a reasonable and just amount along with the cost of this action.

WHEREFORE, Plaintiffs pray for a trial by jury on all issues presently raised or that may be raised in any of the pleading hereafter and further seeks,

- 1. Actual and punitive damages against Defendants, FLORENCE COUNTY SCHOOL DISTRICT ONE and FLORENCE COUNTY SHERIFF'S DEPARTMENT, in an amount to be determined by a jury;

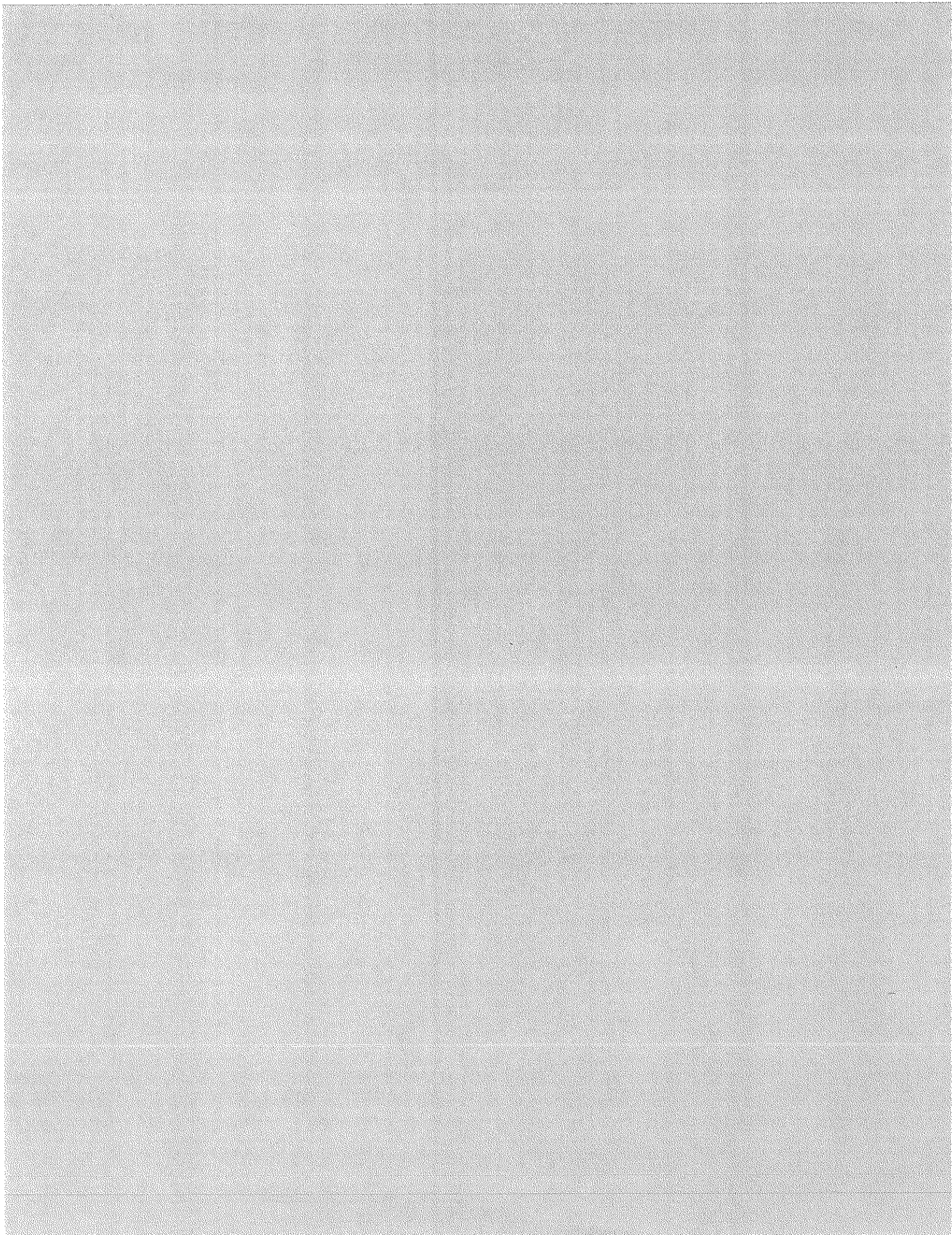
2. Costs, expenses, and disbursement of this action;
3. Such other and further relief as this Court may deem appropriate.

Respectfully submitted,

/s/ Darryl C. Caldwell
Darryl C. Caldwell, Esquire
CALDWELL LAW FIRM
140 Wildewood Park Drive, Palmetto Suite 103,
Columbia, South Carolina 29223
(803) 542-0431 (O) / (803) 419-8787 (F)

ATTORNEY FOR PLAINTIFFS

Columbia, South Carolina
Dated: September 29, 2021



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF FLORENCE	)	TWELFTH JUDICIAL CIRCUIT
	)	
IN Re: Hannah J. Secka, individually and	)	CIVIL ACTION NO: 2021-CP-21-02121
as parent and guardian for the minor	)	
M.Y.S.,	)	
	)	
Plaintiffs,	)	
	)	PLAINTIFFS' ANSWER TO
	)	DEFENDANT FLORENCE COUNTY
	)	SCHOOL DISTRICT ONE FIRST SET
	)	OF CONTINUING
vs.	)	INTERROGATORIES
	)	
	)	
	)	
FLORENCE COUNTY SCHOOL	)	
DISTRICT ONE and FLORENCE	)	
COUNTY SHERIFF'S DEPARTMENT,	)	
	)	
Defendants.	)	

TO: DAVID N. LYON, ESQUIRE, ATTORNEY FOR DEFENDANT FLORENCE COUNTY SCHOOL DISTRICT ONE:

Plaintiffs Hannah J. Secka, individually and as parent and guardian, for minor child M.Y.S., pursuant Rule 33 of the South Carolina Rules of Civil Procedures, hereby answer Defendant Florence County School District One First Set of Continuing Interrogatories as follows:

1. For Plaintiffs, as well as each person answering or assisting in answering these Interrogatories, please state the person's full name (including all previous legal names, nicknames and aliases), current and last mailing address, date of birth, social security number, as well as the name of each current and former spouse, if any.

ANSWER:

a. Hannah Secka
503 W. Darlington Street, #B
Florence, South Carolina 29501

Her date of birth is March 26, 1972. The last four of his SS# xxx-xx-7302.

Currently divorced. Object to the relevance of naming former spouse (s).

Complete Social Security number will be provided in a secure correspondence.

- b. Moudou Yasen Secka
503 W. Darlington Street, #B
Florence, South Carolina 29501**

His date of birth is January 7, 2004. The last four of his SS# xxx-xx-5661.

Never been married.

Complete Social Security number will be provided in a secure correspondence.

- 2. For each person known to Plaintiffs or Plaintiffs' counsel to be a witness concerning the facts of the case, provide their names and contact information (addresses, telephone numbers) and set forth either a detailed summary sufficient to inform the District of the important facts known or observed by such witnesses or provide a copy of any written or recorded statements taken from such witnesses.**

ANSWER:

- a. Hannah Secka
503 W. Darlington Street, #B
Florence, South Carolina 29501**

Plaintiff Hannah Secka is expected to testify to the incidents outlined in the Complaint. No statement has been taken from this witness.

- b. Moudou Yasen Secka
503 W. Darlington Street, #B
Florence, South Carolina 29501**

Plaintiff M.Y.S. is expected to testify to the incidents outlined in the Complaint. No statement has been taken from this witness.

- c. Daisey Johnson, Teacher Aid/Student Shadow
Snead Middle School
1102 South Ebenezer Road
Florence, South Carolina 29501**

Daisey Johnson, Teacher Aid/Student Shadow at Snead Middle School and West Florence High School is expected to testify to meetings attended and the incident involving writing on Plaintiff M.Y.S.'s arm. Plaintiffs are unaware as to whether a statement has been taken from this witness.

- d. Kathy Luhrs- Math Special Education Teacher
Snead Middle School
1102 South Ebenezer Road
Florence, South Carolina 29501**

Kathy Luhrs- Math Special Education Teacher at Snead Middle School is expected to testify to the circumstances involving writing on Plaintiff M.Y.S.'s arm. Plaintiffs are unaware as to whether a statement has been taken from this witness.

- e. Mathew Dowdell, Principal
West Florence High School
221 North Beltline Drive
Florence, South Carolina 29501**

Mathew Dowdell, Principal, West Florence High School is expected to testify to the circumstance of the hazing incident in the football locker room and Deputy Jablonski Green's conduct towards Plaintiff M.Y.S. and the subsequent investigations. Plaintiffs are unaware as to whether a statement has been taken from this witness.

- f. Christopher Coleman, Assistant Principal
West Florence High School
221 North Beltline Drive
Florence, South Carolina 29501**

Christopher Coleman, Assistant Principal, West Florence High School is expected to testify to the circumstances of the hazing incident in the football locker room and Deputy Jablonski Green's conduct towards Plaintiff M.Y.S. and the subsequent investigations. Plaintiffs are unaware as to whether a statement has been taken from this witness.

- g. Lisa Doyles, Resource Teacher
West Florence High School
221 North Beltline Drive
Florence, South Carolina 29501**

Lisa Doyles, Resource Teacher, West Florence High School is expected to testify to the circumstances concerning Deputy Jablonski Green's conduct towards Plaintiff M.Y.S. Plaintiffs are unaware as to whether a statement has been taken from this witness.

- h. Jeff Lee, Football Coach
West Florence High School
221 North Beltline Drive
Florence, South Carolina 29501**

Jeff Lee, Football Coach, West Florence High School, is expected to testify to the hazing incident in the football locker room and the subsequent investigations. Plaintiffs are unaware as to whether a statement has been taken from this witness.

- i. Deputy Jablonski Green, West Florence High School Resource Officer (former)
6719 Friendfield Road
Effingham, South Carolina 29541**

Deputy Jablonski Green, West Florence High School Resource Officer (former) is expected to testify to the circumstances regarding his conduct towards Plaintiff M.Y.S. and the subsequent investigations. Plaintiffs are unaware as to whether a statement has been taken from this witness.

- j. Dr. Richard O'Malley, Superintendent- Florence County School District One
319 South Irby Street
Florence, South Carolina 29501**

Dr. Richard O'Malley, Superintendent- Florence County School District One is expected to testify to the circumstances of the hazing incident in the locker room and Deputy Jablonski Green's conduct towards Plaintiff M.Y.S. and the subsequent investigations. Plaintiffs are unaware as to whether a statement has been taken from this witness.

- k. Brian Denny, Assistant Superintendent- Florence County School District One
319 South Irby Street
Florence, South Carolina 29501**

Brian Denny, Assistant Superintendent- Florence County School District One is expected to testify to the circumstances of the hazing incident in the locker room and Deputy Jablonski Green's conduct towards Plaintiff M.Y.S. and the subsequent investigations. Plaintiffs are unaware as to whether a statement has been taken from this witness.

3. Set forth a list of photographs, digital images, recordings, plats, sketches or other prepared documents in possession of Plaintiffs or Plaintiffs' counsel that relate to the claim or defense of the case, including any documents prepared for or transmitted to law enforcement.

ANSWER:

- a. 10/22/2019 Notice of Threats of Bodily Harm to Y. Secka**
- b. 02/11/2019 Florence County Supplemental Report- Bodily Harm to Y. Secka**
- c. 02/07/2019 Hannah Secka Email Requesting Video Surveillance**
- d. 02/15/2019 SCDJJ Abuse of Power Notice/Letter to Ombudsman V. Samuel**
- 11/12/2019 SCDJJ Abuse of Power Notice/Letter to Ombudsman V. Samuel**
- e. 10/15/2019 Hannah Secka Complaint of Deputy Green Abuse to Y. Secka**
- f. 11/06/2019 SCDJJ Letter of Acknowledgment Y. Secka Crime Victim**

g. 11/25/2020 Hannah Secka Complaint of Deputy Green Threats to Y. Secka

4. State explicitly the "obscene phrase" that Kathy Luhrs wrote on minor Plaintiff, as alleged in Paragraph 16 of the Complaint.

ANSWER: Kathy Luhrs wrote "Loyalty" on Plaintiff M.Y.S.'s arm.

5. State the names of the students who "attacked" minor Plaintiff in the West Florence High School locker room, the date on which the alleged attack occurred, and the nature of the "physical injuries to his face and back," as alleged in Paragraph 17 of the Complaint.

ANSWER: Plaintiff M.Y.S. received injuries to his face and back as a result of the hazing incident in the West Florence High School football locker room when he was attacked by a group of older football players. Also, Plaintiff M.Y.S. received mental counseling regarding the teacher's writing on his arm, the hazing incident, and the SRO's actions toward him. The medical documents are still being compiled. This Interrogatory will be supplemented once the documents are received. No property damages are sought in this lawsuit.

6. State with specificity the details, including times, dates, locations and situations that constitute actionable threats, harassment, bullying and intimidation of minor Plaintiff by District employees, as alleged in Paragraph 18 of the Complaint.

ANSWER: Please see answer to Interrogatory Number Five (5).

7. State with specificity the details, including times, dates, and locations, of the alleged "unauthorized interrogation" and harassment, bullying and assault of minor Plaintiff by Deputy Jablonski Green, as alleged in Paragraph 19 of the Complaint.

ANSWER: On or about October 15, 2019, Deputy J. Green interrogated and threaten Plaintiff M.Y.S. while a student attending school without the knowledge and consent of Plaintiff Hanna Secka.

8. State the name of the "colleagues" who "physically restrained" Deputy Jablonski Green, as alleged in Paragraph 19 of the Complaint.

ANSWER: It is our understanding that Lieutenant Vince Hanna of the Florence County Sheriff's Department was forced to restrain Deputy Green during an unauthorized and unlawful interrogation.

9. State the names of the "administrators, other officials, and teachers" employed by the District who "knew or had reason to know" that minor Plaintiff was being "assaulted and harassed, bullied, and intimidated," as alleged in Paragraph 20 of the Complaint.

ANSWER:

a. Mathew Dowdell, Principal, West Florence High School

- b. Christopher Coleman, Assistant Principal, West Florence High School**
- c. Jeff Lee, Football Coach, West Florence High School**
- d. Dr. Richard O'Malley, Superintendent, Florence County School District One**
- e. Brian Denny, Assistant Superintendent, Florence County School District One**

10. State the names and addresses of all physicians, psychiatrists, psychologists, or any other medical, mental, or health care practitioners who examined and/or treated the minor M.Y.S. in the last eight (8) years, whether or not related to the alleged incidents set forth in the Complaint. For each such instance, set forth the following particulars:

- a) The date of the diagnosis, treatment, or counseling;
- b) The specific nature of the diagnosis, treatment, or counseling; and
- c) The full name, mailing address, street address, and telephone number of the physician, psychiatrist, psychologist, counselor, or other individual providing the diagnosis, treatment, or counseling.

ANSWER:

- a. Dr. Leah Pritchard-Boone, Clinical Psychologist**
Season Psychology
314 McQueen Street
Florence, South Carolina 29501
(843) 407-4440
- b. Dr. Richard Davis, Pediatrician**
Eastern Carolina Pediatrics
1530 McClure Court
Florence, South Carolina 29205
(843) 395-0015
- c. Dr. Stephen Kinsman, Neurologist**
96 Jonathan Lucas Street
Charleston, South Carolina
(843) 792-3307
- d. Dr. Concetta Riva, Pulmonary**
2705 North Highway 17, Suite 100
Mount Pleasant, South Carolina 29486
(843) 876- 0444

11. Set forth the name and address of each physician, hospital, clinic, or other institution from which the minor Plaintiff received treatment for any injuries as a result of the incidents complained of in the Complaint.

ANSWER:

a. **Dr. Leah Pritchard-Boone, Clinical Psychologist**
Season Psychology
314 McQueen Street
Florence, South Carolina 29501
(843) 407-4440

b. **Dr. Richard Davis, Pediatrician**
Eastern Carolina Pediatrics
1530 McClure Court
Florence, South Carolina 29205
(843) 395-0015

12. Provide an itemized list of all medical expenses incurred for the minor M.Y.S.'s treatment, if any, and any anticipated expenses that you expect to incur as a result of the alleged injuries minor Plaintiff sustained as a result of the incidents referred to in the Complaint, and state the amount that has been paid to satisfy these expenses, and identify the entity paying the expense. For medical expenses that have been incurred, but not yet paid or satisfied, the list should include the amounts actually necessary to satisfy the bills.

ANSWER: Plaintiff M.Y.S. received injuries to his face and back as a result of the hazing incident in the West Florence High School football locker room when he was attacked by a group of older football players. Also, Plaintiff M.Y.S. received mental counseling regarding the teacher's writing on his arm, the hazing incident, and the SRO's actions toward him. The medical documents are still being compiled. This Interrogatory will be supplemented once the documents are received.

13. Describe in detail the types and amounts of damages you are seeking in the Complaint; set forth the calculation of damages and detail the manner in which Plaintiffs calculated such damages.

ANSWER: Plaintiffs are still in the process of ascertaining the total amount of damages from the incidents in question. Plaintiffs is seeking all damages recoverable pursuant South Carolina Law. This Interrogatory will be supplemented once this process is completed.

14. Please identify, by name and position, all employees or agents of the District with whom Plaintiffs or their agents communicated regarding the alleged incidents and injury set forth in the Complaint. For any such communication please state the dates, method, and substance of those communications.

ANSWER:

- a. Mathew Dowdell, Principal, West Florence High School**
- b. Christopher Coleman, Assistant Principal, West Florence High School**
- c. Jeff Lee, Football Coach, West Florence High School**
- d. Dr. Richard O'Malley, Superintendent, Florence County School District One**
- e. Brian Denny, Assistant Superintendent, Florence County School District One**

15. Identify each person whom you expect to call as an expert witness to testify in conjunction with any trial of this matter, and for each such person identified, state: his/her name, address, occupation and particular field of expertise; the subject matter about which said person is expected to testify; the substance of expert opinions to which such person is expected to testify; the facts relied upon by the expert in formulating his/her opinions, all documents that have been provided to that expert in connection with this matter; and a summary of the ground(s) for each opinion held by that person.

ANSWER: Plaintiffs have not yet retained an expert whose testimony it may use at trial; but reserves the right to do so and will supplement the answer to these Interrogatories upon doing so. Also, Plaintiffs reserve the right to utilize any expert produced by any party in this litigation.

16. Please state the nature of any other legal actions (civil, worker's compensation, disability claims, domestic, or criminal, including any arrests, if any) that Plaintiffs have been involved in either as a plaintiff or defendant; and, if Plaintiffs have been so involved, please state the dates of involvement, the courts in which these actions were pending, and the resolutions.

ANSWER: Plaintiff Hannah Secka has one (1) pending action in federal court. Florence County School District One brought an action against Plaintiff Hannah Secka to recover attorney's fees (C.A. No: 4:21-cv-03746-JD). Plaintiff settled wrongful discharge action against Florence County School District Three (C.A. No: 4-20-cv-033420 (JID-TER). This pending case is the only litigation filed by Plaintiff M.Y.S.

17. State whether during the period of the incidents through the present, Plaintiffs or someone acting on Plaintiffs' behalf, posted or authored any communication or writing to a Social Networking Service ("SNS"), including any image, audio, video or other SNS communication concerning the matters in this suit as described in the Complaint and including the facts, damages, allegations, defenses, claims, or any other subject related to this matter. For each answer, please include a description of your message including the date, time, recipient(s), and content.

ANSWER: Plaintiffs are unaware of any Social Networking Service ("SNS") communication or writing concerning the matters in this suit.

18. For each such SNS account identified in response to the proceeding or any other Interrogatory, please provide the following information:

- a. name, physical address, and the internet address of the SNS;
- b. name, address, social security number, and date of birth of the SNS account subscriber, and if different, the individual financially responsible for the SNS account;
- c. each and every username, screen name, email address, or alias affiliated with the SNS account; and
- d. password for accessing the SNS account.

ANSWER: Plaintiffs are unaware of any Social Networking Service ("SNS") communication or writing concerning the matters in this suit.

19. During the period from the incidents through the present, if you or someone acting on your behalf deleted or took down or attempted to delete, make private, or remove from a SNS or messaging application, a message, text, communication, video, audio or image or other SNS Communication regarding any of the matters in this suit as described in the Complaint, including the facts, damages, allegations, defenses, claims, or any other subject related to this matter, describe fully the substance of each such SNS Communication including the date of each change or attempted change.

ANSWER: Plaintiffs are unaware of any Social Networking Service ("SNS") communication or writing concerning the matters in this suit.

20. Identify any and all persons or entities that Plaintiffs or anyone on Plaintiffs' behalf contacted to notify them of the alleged incidents and describe the notice provided.

ANSWER:

- a. Mathew Dowdell, Principal,
West Florence High School
221 North Beltline Drive
Florence, South Carolina 29501

Plaintiff Hanna Secka contacted Mathew Dowdell, Principal, West Florence High School regarding the circumstance of the hazing incident in the football locker room and Deputy Jablonski Green's conduct.

- b. Christopher Coleman, Assistant Principal

**West Florence High School
221 North Beltline Drive
Florence, South Carolina 29501**

Plaintiff Hanna Secka contacted Christopher Coleman, Assistant Principal, West Florence High School regarding the circumstance of the hazing incident in the football locker room and Deputy Jablonski Green's conduct.

- c. Jeff Lee, Football Coach
West Florence High School
221rth Beltline Drive
Florence, South Carolina 29501**

Plaintiff Hanna Secka contacted Jeff Lee, Football Coach, West Florence High School regarding the circumstance of the hazing incident in the football locker room.

- d. Dr. Richard O'Malley, Superintendent- Florence County School District One
319 South Irby Street
Florence, South Carolina 29501**

Plaintiff Hanna Secka contacted Dr. Richard O' Malley, Superintendent regarding the circumstance of the hazing incident in the football locker room and Deputy Jablonski Green's conduct.

- e. Brian Denny, Assistant Superintendent- Florence County School District One
319 South Irby Street
Florence, South Carolina 29501**

Plaintiff Hanna Secka contacted Brian Denny, Assistant Superintendent regarding the circumstance of the hazing incident in the football locker room and Deputy Jablonski Green's conduct.

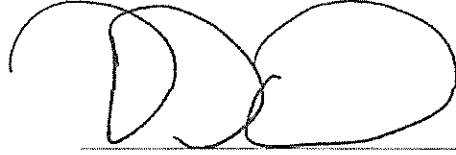
21. If you contend that the District violated or acted contrary to any policy, procedure, guideline, protocol, rule, regulation, or written standard used, written or adopted by the District related to the incident at issue, then provide a detailed description of each such violation or contrary act or action, including the manner in which the policy, etc., was violated or not followed and such violation or failure to follow contributed to the incident at issue.

ANSWER: Florence County School District One failed to protect Plaintiff M.Y.S from physical and emotional injuries while he was a student attending District One Schools.

22. Set forth a list of all documents that support, in whole or in part, Plaintiffs' answers to the District's First Set of Interrogatories to Plaintiffs or which were used or referenced in any way while preparing those answers.

ANSWER: All documents relied upon, utilized, and/or reviewed in preparation to these discovery request has been provided in response to Defendant's Florence County School District One's Request for Production of Documents.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a cursive 'C' and a horizontal line extending to the right.

Darryl C. Caldwell, Esquire
Attorney for Plaintiffs
140 Wildewood Park Drive, Palmetto Suite 103,
Columbia, South Carolina 29223
(803) 542-0431 (O)/(803) 419-8787 (F)

July 15, 2022

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

IN Re: Hannah J. Secka, individually and as
parent and guardian for the minor, M.Y.S.,

Plaintiff(s),

v.

Florence County School District One and
Florence County Sheriff's Department,

Defendant(s).

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Civil Action No.: 2021-CP-21-02121

**DEFENDANT FLORENCE COUNTY
SCHOOL DISTRICT ONE'S
MEMORANDUM IN SUPPORT OF ITS
MOTION FOR SUMMARY JUDGMENT**

Defendant, Florence County School District One (the "District"), respectfully submits this Memorandum of Law in Support of its Motion for Summary Judgment pursuant to Rule 56, SCRCP. Pursuant to the May 19, 2023, Consent Scheduling Order ("CSO"), discovery has closed. The parties have also attempted mediation but were unsuccessful. Pursuant to the CSO, the District timely moved for Summary Judgment on the grounds that there are no genuine issues of material fact, and it is entitled to judgment in its favor as a matter

of law, as more fully explained below. Additionally, the CSO provides that this case will not be called to trial until at least thirty (30) days after the Court rules on this motion. Thus, the Court has ample time to consider the facts of this case and respectfully, should grant summary judgment if not in whole, then at least in part to narrow the issues for trial.

I. INTRODUCTION

A. Case Summary

This is a South Carolina Tort Claims Act ("SCTCA") case brought by a former student, M.Y.S., and his mother, Hannah Secka, against the Florence County School District One, alleging

various instances of gross negligence on the part of District employees. The Complaint generally alleges that on various occasions from about September 2017 through October 2019, certain District staff threatened, bullied, intimidated, harassed and otherwise mistreated M.Y.S. The Complaint also alleges that on October 17, 2018, M.Y.S. “was attacked by several students . . . in the athletic locker room resulting in physical injuries to his face and back.” Compl. ¶ 17. In his deposition, M.Y.S. described the incident as a “tussle” that left him with “like, a little whelp or whatever” right above his lip (but no bleeding) and “little scrapes, little scratches” on his back. Ex. 1, M.Y.S. Dep. p. 95, Ins. 23-24; p. 97, Ins. 17-25; p. 98, Ins. 5-8. These are the only physical injuries alleged.

Plaintiffs have taken no testimony from any of the District employees who are alleged to have harmed M.Y.S., nor from any witnesses to the harm allegedly perpetuated by District employees or the students in the locker room. Additionally, Plaintiff Secka testified that she was not present and did not witness any of the events complained of, but rather that the allegations are based upon what M.Y.S. told her and school records. Ex. 2, Secka Dep. p. 64, In. 25 - p. 65, In. 19; p. 131, Ins. 7-10. Accordingly, she lacks the requisite personal knowledge of the incidents alleged in the Complaint and may not testify to these matters. *See* Rule 603, SCRE. In sum, the only evidence Plaintiffs have adduced as to alleged wrongful acts by District employees is by way of M.Y.S.’s testimony. That testimony, some of which contradicts other statements M.Y.S. has previously made, plainly reveals that there is no Tort Claims Act loss nor any actionable tort for which the District can be held liable.

B. Background

M.Y.S. was a student at Sneed Middle School during the 2017-2018 school year. He was a student at West Florence High School during the 2018-19 and 2019-20 school year. During his time in the District, M.Y.S. amassed numerous disciplinary citations and reprimands. Ex. 3, Discipline Records. For example, at Sneed Middle School, M.Y.S. was suspended for: taking another student's property then refusing to return it on September 8, 2017; hitting a teacher who took his phone on September 27, 2017; "pants-ing"¹ another student on September 28, 2017; cursing at a teacher on October 19, 2017; punching another student in the face on December 13, 2017; fighting on February 6, 2018; pushing another student on February 21, 2018; and cursing at another teacher on March 13, 2018. Ex. 3, Discipline Records.

Upon arriving at West Florence High School, M.Y.S. was also disciplined for cheating on September 7, 2018, and for refusing to put his phone away when asked on October 7, 2019. Ex. 3, Discipline Records. On October 14, 2019, M.Y.S. was suspended from school for fighting. Ex. 3, Discipline Records. Other students made a video of that fight, which was shown to administration and reported to the School Resource Officer ("SRO"). This fight led to an interaction between M.Y.S. and the SRO, an employee of the Florence County Sheriff's Office, about which Plaintiffs complained in their Complaint against the Florence County Sheriff's Office.²

¹ "Pants-ing" is the act of pulling down a person's trousers and sometimes underpants, usually against their wishes, and typically as a practical joke. <https://en.wikipedia.org/wiki/Pantsing>.

² The Sheriff's Office reached a settlement with Plaintiffs at mediation on October 26, 2023, with regard to the incident involving the SRO, who was a Sheriff's Office employee. The Stipulation of Dismissal was entered on January 3, 2024. To the extent Plaintiffs would seek to hold the District liable for the behavior of the SRO, the District asserts that claim is resolved and is no longer part of this case as a result of the settlement. To the extent that claim remains a part of this case, the District incorporates all of the arguments in the Sheriff Department's Memorandum in Support of its Motion for Summary Judgment filed with the Court on October 23, 2023.

M.Y.S. had an Individual Education Program (“IEP”) for his Autism Spectrum Disorder. Ex. 5, OCR Letter of Finding, FCD1.SECKA2 000982. M.Y.S. asserts that he also has narcolepsy, cerebral palsy, depression, anxiety, and P.T.S.D. Ex. 1, M.Y.S. Dep. p. 43, lns. 7-13. In any event, M.Y.S. took regular education, diploma-track courses and graduated. He also played on the football team his freshman and sophomore year. M.Y.S. Dep. p. 43, ln. 14 - p.44, ln. 19. At the time of his deposition, he was gainfully employed full time as a bagger and cashier at a grocery store. M.Y.S. Dep. p. 9, ln. 12 - p.11, ln.3.

M.Y.S. also had a Behavior Intervention Plan (“BIP”) to address his negative behaviors. As part of the BIP, the District provided M.Y.S. a one-to-one aide, Ms. Daisy Johnson, whose job, according to her, was to “observe that student, make sure that the student is on the right track, doing the right things [and] keep them from disturbing the class, mainly.” Ex. 4, Johnson Dep. p. 9, lns. 17-24. Ms. Johnson also testified that she was concerned that M.Y.S. was using drugs. Ex. 4, Johnson Dep. p. 56, ln. 17- p 57, ln. 24.

Because M.Y.S. received special education services, he and his mother had access to legal processes under the Individuals with Disabilities Education Act (“IDEA”) to challenge various aspects of his schooling. They engaged in those processes. In fact, some of the allegations contained in this lawsuit have been tested and determined deficient in various other legal and administrative fora, including, significantly, the United States Department of Education’s Office of Civil Rights (“OCR”). OCR conducted an investigation into this matter that included collecting statements from M.Y.S. and school personnel. As noted in the District’s written response to Plaintiff’s Appeal of OCR’s decision to close its investigation: “[Secka’s] claims have already been reviewed and adjudicated during her Individuals with Disabilities Education Act (IDEA) due

process hearing and state level appeal by the state-appointed state review officer ³. . . her State Department of Education (DOE) complaint . . . and her teacher misconduct complaints,⁴ as well as in the OCR Complaint investigation at issue in the above-referenced matter . . .” Ex. 6, OCR Appeal Resp. FCD1.SECKA2 001001-02. Those efforts have failed. Plaintiffs have now repackaged some of those same claims as SCTCA violations. For the reasons discussed below, Plaintiffs have failed to establish facts sufficient to entitle them to any relief from this Court.

C. Plaintiffs’ Allegations

Plaintiffs filed their Complaint on September 29, 2021, alleging “grossly negligent hiring, retention, and supervision” of the District’s employees who are alleged to have either: 1) “threatened, bullied, intimidated and, harassed” M.Y.S.; or 2) failed to prevent M.Y.S. from getting into a “tussle” with two of his teammates in the locker room.

The specific allegations as set out in the Complaint are as follows:

That on or about May 29, 2018, [District Employee] Kathy Luhrs wrote on the student and minor child, M.Y.S. with a black chemical marker an obscene phrase without the student and minor child, M.Y.S.’s consent authorization. Compl. ¶ 16.

That on or about October 17, 2018, student and minor child, M.Y.S. was attacked by several students in West Florence High School’s athletic locker room resulting in physical injuries to his face and back. Compl. ¶ 17.

That on or about October 15, 2019, Deputy Jablonski Green [former School Resource Officer (SRO) at the school and Florence County Sheriff’s Department

³ The Court should be aware that Plaintiff Secka’s repetitive, abusive, and bad faith requests for due process under the IDEA led the District to sue her for attorney’s fees in United States District Court. *See generally*, Ex 7, Federal Litigation Documents. That suit was based on an administrative finding that Plaintiff Secka filed repeated requests (10 in all) for due process hearings for an improper purpose; specifically, to harass the District, cause unnecessary delay, and needlessly increase the cost of litigation. Although the parties mediated on January 31, 2023, with an agreement to settle for \$9,000, to be paid in installments, as of this writing, Plaintiff has refused to pay, resulting in further litigation—most recently, the issuance of a writ of execution.

⁴ The teacher misconduct complaints that Plaintiff Secka filed were also dismissed.

employee] was physically restrained by colleagues as he harassed, bullied, and assaulted the student and minor child, M.Y.S. while conducting an unauthorized interrogation of student and minor child, M.Y.S. on the premises of West Florence. Compl. ¶ 19.

The Complaint also asserts the following conclusory allegations:

That on various occasions, during the academic school year 2018-2019, [District employees] Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyles threatened, bullied, intimidated and, harassed the student and minor child, M.Y.S. Compl. ¶ 18.

At his deposition, M.Y.S. was asked to specify what each of these District employees did to him that constituted threats, intimidation, bullying, and/or harassment. His responses reveal a hodgepodge of perceived slights, wounded pride, and feelings of being singled out, but nothing that would amount to threats, intimidation, bullying, or harassment and certainly nothing that amounts to a “loss” as defined by the SCTCA. M.Y.S.’s testimony about these incidents will be discussed more fully below.

Plaintiffs’ other claim involves the “tussle” in the locker room referenced above, which Plaintiffs presumably believe the District could and should have prevented. The Complaint alleges:

That on or about October 17, 2018, student and minor child, M.Y.S. was attacked by several students in West Florence High School's athletic locker room resulting in physical injuries to his face and back. Compl. ¶ 17.

At his deposition, M.Y.S. described this incident as a “tussle” which resulted in “like, a little whelp or whatever” right above his lip (but no bleeding) and “little scrapes, little scratches” on his back. Ex. 1, M.Y.S. Dep. p. 95, Ins. 23-24; p. 97, Ins. 17-25; p. 98, Ins. 5-8. It should be noted that M.Y.S. previously denied that this incident happened when his Coach asked him about it and when M.Y.S. was interviewed by OCR. Ex. 5, OCR Letter of Finding, FCD1.SECKA2 000982. Nevertheless, M.Y.S. testified at his deposition that this incident would not have been visible to

anyone else in the locker room because the room was crowded. Ex. 1, M.Y.S. Dep. p. 99, ln. 9-p. 100, ln. 2. This admission forecloses any claim of grossly negligent supervision: if the incident was not visible, District employees could not have prevented or stopped it.

In sum, the testimony in support of the Complaint's allegations does not establish any genuine issue of material fact that would support a viable SCTCA claim.

II. STATEMENT OF LAW

A. Legal Standard

Under Rule 56, SCRCP, a party is entitled to judgment as a matter of law if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact. "Summary judgment is appropriate when it is clear there is no genuine issue of material fact and the conclusions and inferences to be drawn from the facts are undisputed." *McClanahan v. Richland County Council*, 350 S.C. 433, 437, 567 S.E.2d 240, 242 (2002). A party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991). A party opposing a motion for summary judgment may not rest on the mere allegations of his pleadings but must set forth specific facts showing that there is a genuine issue of material fact to be considered by a jury. *Thomas v. Waters*, 315 S.C. 524, 445 S.E.2d 659 (Ct. App. 1994). It is not enough that the non-moving party show that a factual dispute exists; "[o]nly disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S. Ct. 2505, 91 L.Ed.2d 202 (1986). Additionally, "it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not

genuine.” *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023) (clarifying prior precedent and rejecting the “mere scintilla” standard). In determining whether any triable issues of fact exists, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the nonmoving party. *Vermeer Carolina’s, Inc. v. Wood/Chuck Chipper Corp.*, 336 S.C. 53, 518 S.E.2d 301 (Ct. App. 1999). If triable issues exist, those issues should be submitted to the jury. *Young v. S.C. Dept. of Corrections*, 333 S.C. 714, 718, 511 S.E.2d 413, 415 (Ct. App. 1999). However, when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. *Pye v. Aycock*, 325 S.C. 426, 480 S.E.2d 455 (Ct. App. 1997). Here there are no genuine issues of material fact that justify sending this case to a jury.

B. The Tort Claims Act

1. Purpose of the Tort Claims Act

The Tort Claims Act “is the exclusive civil remedy available for any tort committed by a governmental entity, its employees, or its agents.” S.C. Code. § 15-78-20(b). In passing the Act, the Legislature intended to waive the State’s sovereign immunity under certain circumstances while, at the same time, not subjecting the State to unlimited or unqualified liability. S.C. Code Ann. § 15-78-60. As an additional safeguard, the Legislature expressly provided that the Act’s exceptions to the waiver of immunity “must be liberally construed in favor of limiting the liability” of covered entities. *See* S.C. Code Ann. § 15-78-20(f).

2. Statute of limitations

Section 15-78-110 of the Act provides a two-year statute of limitations for most actions; a three-year statute of limitations is available to a party who files a “verified claim.” S.C. Code Ann.

§ 15-78-80; *Joubert v. South Carolina Dep't of Soc. Servs.*, 341 S.C. 176, 534 S.E.2d 1 (S.C. Ct. App. 2000) (if a plaintiff files a statutorily-defined claim within one year of loss or injury, the statute of limitations is extended to three years). As the record contains no evidence that Plaintiffs filed a verified claim, the general two-year statute of limitations is applicable.

Here, the Complaint by Plaintiff Secka “individually and as parent and guardian for the minor, M.Y.S,” was filed on September 29, 2021. Thus, any claims arising before September 29, 2019, are time-barred by Section 15-78-110. No genuine issue of material fact exists in this regard.

3. The SCTCA’s definition of “loss”

The SCTCA defines a compensable “loss” as “bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in actions for negligence, *but does not include the intentional infliction of emotional harm.*” S.C. Code § 15-78-60 (emphasis added). Thus, the Act requires pleading and proof of “bodily injury, disease, death or damage to property” and if anyone of those is established, a person may claim actual damages to include pain and suffering, mental anguish, etc.

Claims, like some of those alleged here, which seek to establish liability on the District as a result of the negligence of particular employees cannot seek damages for emotional distress only. This is because such a claim is the equivalent of a negligent infliction of emotional distress claim. In South Carolina, there is no general negligence cause of action for alleged emotional distress. *See Pope v. Barnwell Cnty. Sch. Dist. No. 19*, 2017 WL 1148741, at *11 (D.S.C. Mar. 28, 2017) (no general negligence cause of action for alleged emotional distress only). Additionally, South Carolina only permits recovery for negligent infliction of emotional distress, “in the very limited

context of situations involving bystander trauma” where “(a) the negligence of the defendant must cause death or serious physical injury to another; (b) the plaintiff bystander must be in close proximity to the accident; (c) the plaintiff and the victim must be closely related; (d) the plaintiff must contemporaneously perceive the accident; and (e) the emotional distress must both manifest itself by physical symptoms capable of objective diagnosis and be established by expert testimony.” *Stephens v. United States*, 2017 WL 217965, at *3 (D.S.C. Jan. 19, 2017) (citing *Kinard v. August Sash & Door Co.*, 286 S.C. 579, 582, 336 S.E.2d 465, 467 (1985)). Thus, Plaintiff Secka has no claim for emotional distress, and, to the extent M.Y.S. cannot show significant physical injury, he also cannot recover for emotional harm in a SCTCA action.

4. Applicable immunity provisions and the gross negligence standard

In this case, there are two specific immunity provisions that are primarily applicable to the allegations in the Complaint. First, Section 15-78-60(25), provides that a governmental entity is not liable for a loss resulting from the entity’s exercise of a: “responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student . . . *except when the responsibility or duty is exercised in a grossly negligent manner.*” S.C. Code Ann. § 15-78-60 (25). Gross negligence 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.” *Etheredge v. Richland Sch. Dist. One*, 341 S.C. 307, 310, 534 S.E.2d 275, 277 (2000); *Clyburn v. Sumter Cnty. Sch. Dist. No. 17*, 317 S.C. 50, 451 S.E.2d 885 (1994); *Richardson v. Hambright*, 296 S.C. 504, 374 S.E.2d 296 (1988). Gross negligence also has been defined as a failure to exercise even slight care. *Id.* While gross negligence is ordinarily a mixed question of law and fact, when, as here, the evidence supports but one reasonable inference, the question becomes a matter of law for

the court. *Clyburn*, 317 S.C. at 53, 451 S.E.2d at 887. Further, a governmental entity need not “disprove” gross negligence or notice; the burden is on the plaintiff to prove gross negligence. *Stewart v. Richland Mem’l Hosp.*, 350 S.C. 589, 567 S.E.2d 510 (Ct. App. 2002). Finally, the fact that a school district could have done more will not negate the fact that it exercised slight care. *Etheredge*, 341 S.C. at 310, 534 S.E.2d at 277. The ultimate conclusion generally hinges on whether a school district “knew or should have known” of the need to exercise control over a given situation. *Moore v. Berkeley Cnty. Sch. Dist.*, 326 S.C. 584, 486 S.E.2d 9 (Ct. App. 1998).

A second immunity applicable to this case is found in Section 15-78-60(20), which provides that a governmental entity is not liable for a loss resulting from “an act or omission of a person other than an employee including but not limited to the criminal acts of third persons.” Admittedly, immunity does not apply when the basis of the claim is that the gross negligence of the governmental entity or its employees “created a reasonably foreseeable risk of such third party conduct.” *Moore*, 326 S.C. at 590, 486 S.E.2d 12 (citing *Greenville Memorial Auditorium v. Martin*, 301 S.C. 242, 247, 391 S.E.2d 546, 549 (1990)).

III. LEGAL ANALYSIS

Although the Complaint alleges that District employees “threatened, bullied, intimidated and, harassed” M.Y.S., his deposition testimony failed to demonstrate any behavior supporting such claims and certainly no behavior that is actionable under the SCTCA. The term “bullying” has no independent legal significance in South Carolina; therefore, a plaintiff claiming that he was “bullied” must establish some actionable loss under the SCTCA. M.Y.S.’s testimony indicates that there was no actionable loss as a result of any action by the District employees he has accused of bad or negligent behavior.

[Coach Lee] didn't really take any action when I tried to tell him about the locker room incident. Because I -- I basically told him also one-on-one type stuff. Like, it was just me and him like, face-to-face type stuff. And he made it seem like he was going to take action. And -- which he didn't, which was why I didn't really -- after that, that's -- that's when I really lost my motivation for sports. And I just didn't really -- I didn't really mess with no -- nobody else at school after that. Because that's when I realized I didn't really have nobody for real but Ms. Johnson. I just felt like everybody else was just against me, basically."

Ex. 1, M.Y.S. Dep. p. 106, Ins. 13-p.107, ln. 2. In sum, Plaintiff is upset because Coach Lee did not respond in the way M.Y.S. apparently anticipated the coach would or should.

Here again, none of this constitutes grossly negligent behavior nor does it amount to a SCTCA loss. Even assuming that M.Y.S. timely told Coach Lee about the locker room incident and provided sufficient information for Lee to investigate or take some disciplinary action, no evidence has been presented that Lee's alleged failure to investigate resulted in any subsequent injury or negative interaction between M.Y.S. and the other students involved in that incident. Additionally, there was no injury to M.Y.S. other than that his feelings were hurt. Thus, even if Coach Lee was negligent in failing to investigate, there was no actionable injury or harm to M.Y.S.

4. Allegations against Mr. Coleman

When asked what Mr. Coleman did to him, M.Y.S. stated:

I wouldn't say threaten or bully, but as far as harass, yeah, I would -- I would definitely say harass. Because it will be times where I would just be -- just be getting to school, like walking through the metal detectors and Mr. Coleman let everybody else go through [the metal detectors at the school entrance]. And as soon as he see me, he -- he going through my bag extra hard like, extra, extra hard as if he's trying to look for something. Like, as if he's trying to have a reason to -- to get me in trouble, basically. And I would feel -- I would feel very singled out because of that.

Ex. 1, M.Y.S. Dep. p. 107, Ins. 3-17. In sum, M.Y.S.'s claim is based on feeling "singled out" because his book bag was searched more thoroughly than other students. Even if this had occurred, there is no actionable tort and no compensable loss under the SCTCA.

5. Allegations against Ms. Doyles

When asked what Ms. Doyles did to him, M.Y.S. stated:

I didn't really like her class. Because well, for one, "she failed me one time. And I felt some type of way about that because I was actually doing her work. And her work wasn't even that hard. That's why I don't understand why she failed me. Because I lost a whole credit because of that. And that actually set me back a lot. Like, I had to—I had to pull a trick out of the hat in my senior year [to graduate on time.] But . . . I didn't really like her.

Ex. 1, M.Y.S. Dep. p. 108, ln. 20 – p. 109, ln. 10. He further testified that "she brought up the—the Wonder movie/book and she asked me if I ever watched it . . . She made a comment basically, making it sound as if she was comparing me to the boy in the book, Wonder."⁵ Ex. 1, M.Y.S. Dep. p. 109, lns. 11-20. M.Y.S. said that made him feel "very singled out from basically, everybody in the school. Because I was like, it just -- I know -- I know what the movie is and I read the book. So like, that's why I was really like, mad when she said that." Ex. 1, M.Y.S. Dep. p. 110, lns. 7-12. In sum, M.Y.S. is upset with a teacher's apparent comparison between him and a character in a book. Once more, Plaintiff's testimony proves that there are no actionable claims under the SCTCA and no loss as that term is defined by the statute.

Imbedded within some of these allegations are M.Y.S.'s gripes involving grading, disparate discipline, and other non-tortious events that occurred in School. To be clear, claims regarding grading or disciplinary decisions are not matters which South Carolina courts become involved.

⁵ Wonder is a popular critically acclaimed contemporary children's novel, published in 2012, that recounts the story of a student with facial deformities who is initially treated unkindly by his peers but is eventually accepted and recognized for his strength and character throughout the school year. [https://en.wikipedia.org/wiki/Wonder_\(Palacio_novel\)](https://en.wikipedia.org/wiki/Wonder_(Palacio_novel)). M.Y.S. does not have severe facial deformities. It is unclear what Ms. Doyle meant by this, assuming this incident happened the way that M.Y.S. recalls.

“[The South Carolina] Supreme Court has kept the judiciary out of the internal affairs of schools and school districts.” *Palms v. Sch. Dist. of Greenville Cnty.*, 408 S.C. 576, 581, 758 S.E.2d 919, 921 (Ct. App. 2014) (finding that a dispute about student grades in the context of who should be valedictorian was not a justiciable controversy). Nor has South Carolina recognized a tort for educational malpractice. *Hendricks v. Clemson Univ.*, 353 S.C. 449, 461, 578 S.E.2d 711, 717 (2003). These are not independent actionable claims and cannot therefore support claims under the SCTCA. Moreover, M.Y.S. was not without remedy for challenging the appropriateness of the school’s educational and disciplinary decisions. As discussed above, M.Y.S. received special services under the IDEA entitling him and his mother to robust due process, which includes an appeal to federal court. Nevertheless, in this case, Plaintiffs have squarely framed their allegations in the context of state tort law under the SCTCA. None of the above allegations constitute tortious activity.

B. Plaintiffs have not demonstrated a genuine issue of material fact as to whether the District can be held liable for the “tussle” in the locker room.

1. Prior conflicting statements by M.Y.S. about the locker room incident are not sufficient to create a genuine issue of material fact.

It is axiomatic that “[a] genuine issue of material fact is not created where the only issue of fact is to determine which of [several] conflicting versions of the plaintiff’s testimony is correct.” *Barwick v. Celotex Corp.*, 736 F.2d 946, 960 (4th Cir. 1984). At his deposition, Plaintiff described the locker room incident as follows:

So when I turned around, it was basically like both of them right directly in my face. So that's when -- that's when one proceeded to just yank my girdle and -- and snatch it off. And that's when we started like, fussing and tussling for a little minute. And then that's when J [REDACTED] he had hit me. And then after he had hit me, that's when it was just -- it was -- I was just trying to defend myself from there on like, I was just

swinging it basically. But they both --they both had ended up getting hits on me, though. But it wasn't like -- it wasn't like, no painful situation for me to be -- like I'm going -- all right, I'm gonna to just -- I'm gonna just do something about it. Because like, I had already basically did something about it like, in the moment. If you get what I mean.

Ex. 1, M.Y.S. Dep. p. 93, ln. 11 - p. 94, ln. 2.

Plaintiff Secka filed a police report about this incident approximately four months later. Ex. 1, M.Y.S. Dep. Exhibit. 2, PLTFCSO 00005-06. The police report states that M.Y.S. "told his mother that they were rough housing around in the locker room after practice." Ex. 1, M.Y.S. Dep. Exhibit. 2, PLTFCSO 00005-06.

The June 14, 2019, Letter of Finding/Resolution Letter from the Department of Education's Office of Civil Rights states that: "In an interview with OCR, the Student [(M.Y.S.)] confirmed that he did not remember being assaulted by his teammates." Ex. 5, OCR Letter of Finding, FCSD1.SECKA2 000983. Additionally, OCR found that M.Y.S. told Coach Lee "that he had not been assaulted by his teammates but that he got bumped accidentally in the basketball gym before practice." Ex 5, OCR Letter of Finding, FCSD1.SECKA2 000983.

Thus, Plaintiff's deposition testimony conflicts with at least three prior statements he made to others—one to his mother, one to OCR, and one to Coach Lee. Because Plaintiffs have not produced any other independent evidence of what occurred in the locker room, the only evidence in the record of this incident involves four conflicting statements by the only witness there—M.Y.S. Plaintiffs have thus created no genuine issue of fact as to whether this incident actually happened.

2. The District is immune from claims of negligent supervision regarding the tussle in the locker room.

To the extent there is a question of fact as to whether the locker room tussle occurred in the way that M.Y.S.'s most recent testimony indicated, the District is not liable. Plaintiff Secka admitted in her deposition that the alleged attack was a criminal act by the boys involved. The Tort Claims Act provides immunity for the criminal actions of a third party unless the District was grossly negligent in creating a "reasonably foreseeable risk" of the criminal acts. *Moore*, 326 S.C. at 590, 486 S.E.2d 12. Here, there is no evidence in the record that the District had prior notice of a situation that created a reasonably foreseeable risk of criminal acts. M.Y.S. did not allege that he had any trouble with these students previously. In fact, in his deposition, he struggled to remember one of the names of his assailants and notably, the police report also indicates that "no suspect information was given." Ex. 1, M.Y.S. Dep. Exhibit. 2, PLTFCSDO 00005-06. M.Y.S. also did not allege any prior incidents in the locker room about which he had complained to the school. Additionally, there has been no evidence adduced regarding whether or not District employees were in the locker room at that time. However, in this case, the presence or absence of District employees in the locker room at the time is of no consequence because M.Y.S. testified that no one saw this tussle or could have seen it because the interaction as M.Y.S. described it was brief, minor, and the locker room was crowded with students dressing out for practice. Ex. 1, M.Y.S. Dep. p. 99, ln. 9 - p. 100, ln. 2.. Moreover, as described by M.Y.S., the incident clearly erupted spontaneously and lasted for only "a little minute." Ex. 1, M.Y.S. Dep. p. 93, lns. 11-16. Thus, it is not clear what the District could have done to prevent or stop the "tussle."

Additionally, even assuming that this incident happened at all, or as M.Y.S. described in his deposition, there is no actionable harm. Plaintiff himself admits that the hits from the other

students “didn’t really hurt.” Ex. 1, M.Y.S. Dep. p. 94, Ins. 11-13. The photos of the alleged injuries provided in discovery⁶ at best show two very small abrasions on M.Y.S.’s back. Ex. 1, M.Y.S. Dep. Exhibit. 2, PLTFCSDO 00009-10. M.Y.S.’s testimony is the only evidence that these small scratches occurred as a result of the tussle in the locker room, as opposed to, for example, a result of something that happened during football practice. Furthermore, although M.Y.S. testified that he thought that he went to the doctor after this incident, no medical records from any of the providers listed by the Plaintiffs in their discovery responses indicate treatment on or around this date for these very minor injuries.

3. Plaintiffs have adduced no evidence of negligent hiring or retention.

As noted above, Plaintiffs have not demonstrated any genuine issue of material fact tending to show that any District employee did anything tortious that caused M.Y.S. to suffer any cognizable loss under the SCTCA. Moreover, Plaintiffs have not adduced any information that any of the employees accused of mistreating M.Y.S. had a proclivity toward any such similar behavior, such that the District can be grossly negligent for hiring them. *See e.g., Doe v. ATC, Inc.*, 367 S.C. 199, 206, 624 S.E.2d 447, 450 (Ct. App. 2005) (holding that knowledge of the employer’s propensity for harm and the foreseeability of potential harm to third parties are the fundamental elements of negligent hiring and retention cases). Furthermore, both Plaintiffs stated they did not know anything about the hiring or retention of any of the District employees named in their Complaint. Ex. 2, Secka Dep. p. 145, Ins. 5–12; Ex. 1, M.Y.S. Dep. p. 121, ln. 9 – p. 122, ln. 6. In

⁶ Though requested, Plaintiff never provided the original digital photos, so it is impossible to confirm that the photos were taken following the locker room incident.

sum, Plaintiffs have not demonstrated a genuine issue of material fact regarding any aspect of a negligent hiring/retention claim.

4. Any loss experienced by Plaintiffs was not the result of the District's failure to implement policies and procedures for which the Tort Claims Act provides immunity.

To the extent Plaintiffs attempt to hold the District liable for some shortcomings in its policies, the SCTCA provides immunity in that regard. Specifically, S.C. Code Ann. § 15-78-60(4) states that a governmental entity is not liable for a loss resulting from “adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation, or written policies.” S.C. Code Ann. § 15-78-60(4). Here, Plaintiffs presumably allege that the District somehow failed to comply with the Safe Schools Act and follow its code of conduct. Complaint ¶ 23(a). These allegations are legally insufficient under § 15-78-60(4) because a governmental entity cannot be held liable for failure to enforce laws or written policies. Moreover, Plaintiffs have adduced no evidence regarding a lack of policy or a grossly negligent failure to enforce its policies that led to any SCTCA loss. Thus, there is no genuine issue of fact regarding this aspect of the claim.

C. There is no fiduciary relationship between the District and the Plaintiffs as a matter of law.

Plaintiffs assert as a second cause of action that the District owed and subsequently breached a fiduciary duty to M.Y.S. Specifically, Plaintiffs allege that the District owed a fiduciary duty to Plaintiff Secka because “Plaintiff reposed special confidence in the [District] for the care and custody of” M.Y.S and, as such, the District “was bound to act in good faith and with due regard to the interests of the Plaintiffs.” Complaint ¶ 27. This cause of action fails as a matter of

law because South Carolina does not recognize a fiduciary duty in a school-student setting. *See Doe v. Greenville Cnty School District*, 375 S.C. 63, 72, 651 S.E.2d 305, 309–10 (2007) (upholding the trial court’s dismissal of the plaintiffs’ cause of action for breach of fiduciary duty, as well as dismissal of the cause of action for breach of an assumed duty *in loco parentis*); *Hendricks*, 353 S.C. 449, 578 S.E.2d 711 (“We decline to recognize the relationship between advisor and student as a fiduciary one.”).

D. To the extent Plaintiff M.Y.S. has raised a genuine issue of material fact, Plaintiff Hannah Secka should be dismissed from this action.

Even though Plaintiff Secka claimed in her deposition that she has suffered emotional and psychological harm as a result of the District’s treatment of M.Y.S., *see* Ex. 2, Secka Dep. p. 152, ln. 23 – p. 153, ln. 4., the allegations in this case are not sufficient to establish a bystander claim for negligent infliction of emotional distress. *See infra*, page 9. Thus, the only potential claim that Plaintiff Secka would have is one in her representative capacity seeking reimbursement for medical expenses while M.Y.S. was a minor. *Patton v. Miller*, 420 S.C. 471, 483, 804 S.E.2d 252, 258 (2017). However, in this case, Plaintiff Secka has failed to present any evidence that she incurred medical expenses related to the incidents alleged in the Complaint.

Even if she can demonstrate that she incurred medical expenses, her claim is, for the most part, not timely. Pursuant to S.C. Code Sec 15-78-100 and 110, claims subject to the Tort Claims Act must be commenced within two years after the date the loss was or should have been discovered or is forever barred. As more specifically noted above, Plaintiffs’ allegations, as outlined in the Complaint, include four specific circumstances on which the claims of negligence are based: 1) a May 29, 2018 incident where a teacher wrote “Loyalty” on M.Y.S.’s arm; 2) the October 17, 2018 “tussle” in the locker room; 3) the alleged threats, bullying, intimidation, and

harassment of M.Y.S. by specified school staff over the course of the 2018-2019 school year; and 4) an October 15, 2019 incident involving SRO Green.

The current lawsuit was filed on September 29, 2021. Based on this filing date and the record in this matter, the claims and causes of action for which Plaintiff Secka may pursue recovery for medical expenses are those that occurred on or after September 29, 2019. Therefore, Plaintiff Hannah Secka's claims related to the May 29, 2018 and October 17, 2018 incidents are outside the two-year statute of limitations, as are those claims and causes of action based on alleged threats, bullying, intimidation, and harassment of M.Y.S. during the course of the 2018-2019 school year. Thus, the only incident that occurred within the applicable statute of limitations is the one involving SRO Green on or about October 15, 2019. That claim was against the Sheriff's Office, and it is undisputed that SRO Green was, at all times, an employee of Defendant FCSD acting in the capacity of a law enforcement officer. That claim has been resolved and satisfied through Plaintiffs' settlement with the Sheriff's office. Thus, Plaintiff Secka has no claim in this case even if M.Y.S. does.

IV. CONCLUSION

Based on the foregoing, the Court should dismiss the Plaintiffs' Complaint against the District with prejudice. Plaintiffs have failed to put forth any evidence creating a genuine issue of material fact regarding any of the asserted claims that could lead a jury to find in their favor. Therefore, the District is entitled to judgment as a matter of law.

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Respectfully Submitted:

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Attorneys for Defendants

February 12, 2024
Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

IN Re: Hannah J. Secka, individually and as
parent and guardian for the minor, M.Y.S.,

Plaintiffs,

v.

Florence County School District One and
Florence County Sheriff's Department,

Defendants.

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Civil Action No. 2021-CP-21-02121

**DEFENDANT FLORENCE COUNTY
SCHOOL DISTRICT ONE'S ANSWER
AND AFFIRMATIVE DEFENSES**

Defendant Florence County School District One ("District"), by and through its undersigned counsel, hereby submits its Answer and Affirmative Defenses in response to the Plaintiffs' Complaint as follows. The District responds to allegations on behalf of itself only, even where the allegations pertain to alleged conduct by all named Defendants.

JURISDICTION AND VENUE

1. Denied.
2. Jurisdiction and Venue are admitted, upon information and belief.
3. Answering Paragraph 3, and its subparts, the District asserts that no response is required given that the allegations assert legal conclusions. To the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

PARTIES

4. Admitted, upon information and belief.

5. District admits that M.Y.S. was a student in the District schools at all times relevant to this Complaint. The remainder of the allegations in this Paragraph are denied.

6. Admitted.

7. Answering Paragraph 7, the District states these allegations are directed to another defendant, and therefore no responsive pleading is required of the District. Further, no response is required given the allegations do not refer to a specific act or acts of the District.

8. Answering Paragraph 8, the District states these allegations are directed to another defendant, and therefore no responsive pleading is required of the District. Further, no response is required given the allegations do not refer to a specific act or acts of the District.

9. The District admits only, that at the time relevant to the allegations of this Complaint, Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyles were employees of the District, and that the District owned/operated Sneed Middle School and West Florence High School. The remainder of the allegations in this Paragraph assert legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

10. The District admits only that Deputy Jablonski Green was a School Resource Officer in the District. The remainder of the allegations in this Paragraph appear to be directed to another defendant, and therefore no responsive pleading is required of the District. To the extent a response is required and to the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

FACTUAL BACKGROUND

11. The District admits only that Kathy Luhrs was its employee and worked at Sneed Middle School. The remainder of the allegations in this Paragraph assert legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

12. The District admits only that between August 2018 through May 2020, Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyles were District employees and worked at West Florence High School. The remainder of the allegations in this Paragraph assert legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

13. Admitted, upon information and belief.

14. The District admits only that Deputy Jablonski Green was a School Resource Officer in the District. The remainder of the allegations in this Paragraph assert legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

15. Admitted, upon information and belief.

16. Denied.

17. Denied.

18. Denied.

19. The allegations in this Paragraph appear to be directed to another defendant, and therefore no responsive pleading is required of the District. To the extent a response is required and to the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

20. Denied.

FOR A FIRST CAUSE OF ACTION
(Gross negligence and Recklessness)
(As to all Defendants)

21. The District incorporates by reference herein their responses set forth in Paragraphs 1-20 of this Answer, as if fully set forth herein.

22. Denied.

23. The District denies the allegations in Paragraph 23, including its subparts a-n.

24. The District denies the allegations in Paragraph 24, including its subparts a-d.

25. The District denies that Plaintiffs are entitled to the damages sought as listed in Paragraph 25.

FOR A SECOND CAUSE OF ACTION
(Breach of Fiduciary Duty)
(As to Defendant Florence County School District One)

26. The District incorporates by reference herein their responses set forth in Paragraphs 1-25 of this Answer as if fully set forth herein.

27. Denied.

28. The District denies the allegations in Paragraph 28, including its subparts a-p.

29. The District denies the allegations in Paragraph 29, including its subparts a-d.

30. The District denies that Plaintiffs are entitled to the damages sought and listed in Paragraph 30.

RESERVATION OF ADDITIONAL CAUSES OF ACTION

31. The District incorporates by reference herein their responses set forth in Paragraphs 1-30 of this Answer, as if fully set forth herein.

32. This Paragraph contains legal conclusions and does not require a response. To the extent a response is required, the District denies Plaintiffs' right to amend their pleadings after any deadlines set by this Court or the rules of civil procedure.

33. Denied.

Plaintiffs' "WHEREFORE" statement constitutes a demand for relief to which no responsive pleading is required. To the extent a responsive pleading is required, the District denies that Plaintiffs are entitled to the relief she seeks, and strict proof thereof is demanded.

The District denies each and every allegation set forth in Plaintiffs' Complaint not specifically admitted herein.

AFFIRMATIVE AND OTHER DEFENSES

The District state the following affirmative and additional defenses to the Complaint, but does not assume the burden of proof of any such defenses except as required by applicable law with respect to the particular defenses asserted. The District further reserves the right to assert other affirmative and additional defenses and/or otherwise to supplement this Answer upon discovery of facts or evidence rendering such action appropriate.

FOR A FIRST AFFIRMATIVE DEFENSE

One or more of the purported claims in the Complaint are barred in part or in whole by the appropriate statute of limitations.

FOR A SECOND AFFIRMATIVE DEFENSE

One or more of the purported claims in the Complaint fail to state a claim upon which relief may be granted and/or fail to establish the necessary elements of the purported claims.

FOR A THIRD AFFIRMATIVE DEFENSE

The District is a governmental entity and a political subdivision within the provisions of the South Carolina Tort Claims Act, *S.C. Code Ann.* §§ 15-78-10 *et. seq.*, and is entitled to all of the protections provided by the Act.

FOR A FOURTH AFFIRMATIVE DEFENSE

The District asserts the provisions of the South Carolina Tort Claims Act, *S.C. Code Ann.* §§ 15-78-10, *et. seq.*, including the limitations upon liability and damages, and exemptions from liability and damages contained therein, as a defense and/or bar to the allegations of the Plaintiffs' Complaint.

FOR A FIFTH AFFIRMATIVE DEFENSE

Punitive damages are not available against the District or its employees pursuant to *S.C. Code Ann.* §15-78-120(b) of the Tort Claims Act.

FOR A SIXTH AFFIRMATIVE DEFENSE

The District asserts that it is not liable for the damages, injuries, and losses claimed by the Plaintiffs, to the extent that such damages, injuries, and losses resulted from one or more of the

acts or omissions as listed in S.C. Code Ann. § 15-78-60(1) – (40), which the District affirmatively alleges were not done in a grossly negligent manner, included but not limited to:

a) the District’s adoption, enforcement, or compliance with any policy or procedure or its failure to adopt, enforce, or comply with its policies or procedures (*S.C. Code Ann. § 15-78-60(4)*); and/or

b) the exercise of discretion or judgment by the District or its employees in the performance or failure to perform any act or service, which is in the discretion or judgment of the District or its employees (*S.C. Code Ann. § 15-78-60(5)*);

c) employee conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude (*S.C. Code Ann. § 15-78-60(17)*);

d) an act or omission of a person other than an employee of the District including but not limited to criminal acts of third parties (*S.C. Code Ann. § 15-78-60(20)*);

e) responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student of the District, except when the responsibility or duty is exercised in a grossly negligent manner (*S.C. Code Ann. § 15-78-60(25)*).

FOR A SEVENTH DEFENSE

The District would allege that Plaintiffs’ claims against the District fail as a matter of law on the grounds that the Plaintiffs’ injuries were not proximately caused by any act or omission of the District.

FOR AN EIGHTH DEFENSE

The District is not liable to the extent that any injuries and damages sustained by the Plaintiffs, as alleged in the Complaint were due to and were caused and occasioned by the intervening and superseding negligence, carelessness, recklessness, heedlessness, willfulness and wantonness of some other party and such intervening and superseding negligence, carelessness, recklessness, heedlessness, willfulness and wantonness was the direct and proximate cause of the injuries and damages sustained by the Plaintiffs as alleged in the Complaint.

FOR A NINTH DEFENSE

The District is not liable to the extent that any injuries and damages sustained by the Plaintiffs, as alleged in the Complaint, which are denied, were due to and were caused and occasioned by the Plaintiffs' own actions and/or acts of comparative negligence, carelessness, recklessness, heedlessness, willfulness, and wantonness, which acts on the part of the Plaintiffs, combined and contributed and concurred with any negligence, carelessness, recklessness, heedlessness, willfulness, and wantonness on the part of the District, which is denied, without which the alleged incident and resulting alleged damages would not have occurred or have been sustained. Accordingly, the District may be entitled to a determination as to the percentage with which the Plaintiffs' own comparative negligence, carelessness, recklessness, heedlessness, willfulness, and wantonness contributed to the incidents alleged in the Complaint and the Plaintiffs' alleged injuries and damages and to the reduction of any sum awarded to them by an equal amount to the percentage of the Plaintiffs' own comparative negligent, careless, reckless, heedless, willful, and wanton conduct.

FOR A TENTH DEFENSE

If at the trial of this action it is found that the District was in any way negligent or otherwise liable to the Plaintiffs, and that such negligence was the proximate cause of any injuries or damage to the Plaintiffs, which is expressly denied, then it is alleged that other actors are the true liable parties and that District is entitled to recover contribution from any other actor that is held liable for the claims alleged in this action with respect to any judgment, awards, costs, and expenses and attorney's fees that the Plaintiffs or any other party may recover from the District.

FOR AN ELEVENTH AFFIRMATIVE DEFENSE

To the extent that Plaintiffs have failed to mitigate their damages, Plaintiffs' claims for damages are barred, in whole or in part.

FOR A TWELFTH AFFIRMATIVE DEFENSE

Some or all of the purported claims in the Complaint are barred by the doctrines of waiver, release, accord, satisfaction, estoppel, quasi-estoppel, laches, or unclean hands.

FOR A THIRTEENTH AFFIRMATIVE DEFENSE

The District has, at all times, and in all dealings with Plaintiffs, acted in good faith and in compliance with any and all applicable laws.

FOR A FOURTEENTH AFFIRMATIVE DEFENSE

The District reserve the right to assert, and does not waive, any additional or further defenses, as may be revealed by additional information that may be acquired in discovery or otherwise.

FOR A FIFTEENTH AFFIRMATIVE DEFENSE

To the extent that the Plaintiffs allege that the Defendants are “jointly and severally” liable with any other party or entity, that allegation should be stricken and any request for relief based on that allegation denied because the South Carolina Tort Claims Act precludes joint and several liability and requires allocation of responsibility among the Defendants.

WHEREFORE, having fully answered Plaintiffs’ Complaint, the District prays that the same be dismissed with prejudice, together with the costs and disbursements of this action, and for such other and further relief as this Court deems proper.

Respectfully Submitted:

DUFF | FREEMAN | LYON, LLC

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Attorneys for Defendant Florence School District
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December 3, 2021
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

IN Re: Hannah J. Secka, individually and as
parent and guardian for the minor, M.Y.S.,

Plaintiffs,

v.

Florence County School District One and
Florence County Sheriff's Department,

Defendants.

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Civil Action No. 2021-CP-21-02121

**DEFENDANT FLORENCE COUNTY
SCHOOL DISTRICT ONE'S ANSWER
AND AFFIRMATIVE DEFENSES**

Defendant Florence County School District One ("District"), by and through its undersigned counsel, hereby submits its Answer and Affirmative Defenses in response to the Plaintiffs' Complaint as follows. The District responds to allegations on behalf of itself only, even where the allegations pertain to alleged conduct by all named Defendants.

JURISDICTION AND VENUE

1. Denied.
2. Jurisdiction and Venue are admitted, upon information and belief.
3. Answering Paragraph 3, and its subparts, the District asserts that no response is required given that the allegations assert legal conclusions. To the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

PARTIES

4. Admitted, upon information and belief.

5. District admits that M.Y.S. was a student in the District schools at all times relevant to this Complaint. The remainder of the allegations in this Paragraph are denied.

6. Admitted.

7. Answering Paragraph 7, the District states these allegations are directed to another defendant, and therefore no responsive pleading is required of the District. Further, no response is required given the allegations do not refer to a specific act or acts of the District.

8. Answering Paragraph 8, the District states these allegations are directed to another defendant, and therefore no responsive pleading is required of the District. Further, no response is required given the allegations do not refer to a specific act or acts of the District.

9. The District admits only, that at the time relevant to the allegations of this Complaint, Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyles were employees of the District, and that the District owned/operated Sneed Middle School and West Florence High School. The remainder of the allegations in this Paragraph assert legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

10. The District admits only that Deputy Jablonski Green was a School Resource Officer in the District. The remainder of the allegations in this Paragraph appear to be directed to another defendant, and therefore no responsive pleading is required of the District. To the extent a response is required and to the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

FACTUAL BACKGROUND

11. The District admits only that Kathy Luhrs was its employee and worked at Sneed Middle School. The remainder of the allegations in this Paragraph assert legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

12. The District admits only that between August 2018 through May 2020, Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyles were District employees and worked at West Florence High School. The remainder of the allegations in this Paragraph assert legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

13. Admitted, upon information and belief.

14. The District admits only that Deputy Jablonski Green was a School Resource Officer in the District. The remainder of the allegations in this Paragraph assert legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

15. Admitted, upon information and belief.

16. Denied.

17. Denied.

18. Denied.

19. The allegations in this Paragraph appear to be directed to another defendant, and therefore no responsive pleading is required of the District. To the extent a response is required and to the extent the allegations in this Paragraph purport to allege wrongdoing or liability on the part of the District, those allegations are denied.

20. Denied.

FOR A FIRST CAUSE OF ACTION
(Gross negligence and Recklessness)
(As to all Defendants)

21. The District incorporates by reference herein their responses set forth in Paragraphs 1-20 of this Answer, as if fully set forth herein.

22. Denied.

23. The District denies the allegations in Paragraph 23, including its subparts a-n.

24. The District denies the allegations in Paragraph 24, including its subparts a-d.

25. The District denies that Plaintiffs are entitled to the damages sought as listed in Paragraph 25.

FOR A SECOND CAUSE OF ACTION
(Breach of Fiduciary Duty)
(As to Defendant Florence County School District One)

26. The District incorporates by reference herein their responses set forth in Paragraphs 1-25 of this Answer as if fully set forth herein.

27. Denied.

28. The District denies the allegations in Paragraph 28, including its subparts a-p.

29. The District denies the allegations in Paragraph 29, including its subparts a-d.

30. The District denies that Plaintiffs are entitled to the damages sought and listed in Paragraph 30.

RESERVATION OF ADDITIONAL CAUSES OF ACTION

31. The District incorporates by reference herein their responses set forth in Paragraphs 1-30 of this Answer, as if fully set forth herein.

32. This Paragraph contains legal conclusions and does not require a response. To the extent a response is required, the District denies Plaintiffs' right to amend their pleadings after any deadlines set by this Court or the rules of civil procedure.

33. Denied.

Plaintiffs' "WHEREFORE" statement constitutes a demand for relief to which no responsive pleading is required. To the extent a responsive pleading is required, the District denies that Plaintiffs are entitled to the relief she seeks, and strict proof thereof is demanded.

The District denies each and every allegation set forth in Plaintiffs' Complaint not specifically admitted herein.

AFFIRMATIVE AND OTHER DEFENSES

The District state the following affirmative and additional defenses to the Complaint, but does not assume the burden of proof of any such defenses except as required by applicable law with respect to the particular defenses asserted. The District further reserves the right to assert other affirmative and additional defenses and/or otherwise to supplement this Answer upon discovery of facts or evidence rendering such action appropriate.

FOR A FIRST AFFIRMATIVE DEFENSE

One or more of the purported claims in the Complaint are barred in part or in whole by the appropriate statute of limitations.

FOR A SECOND AFFIRMATIVE DEFENSE

One or more of the purported claims in the Complaint fail to state a claim upon which relief may be granted and/or fail to establish the necessary elements of the purported claims.

FOR A THIRD AFFIRMATIVE DEFENSE

The District is a governmental entity and a political subdivision within the provisions of the South Carolina Tort Claims Act, *S.C. Code Ann.* §§ 15-78-10 *et. seq.*, and is entitled to all of the protections provided by the Act.

FOR A FOURTH AFFIRMATIVE DEFENSE

The District asserts the provisions of the South Carolina Tort Claims Act, *S.C. Code Ann.* §§ 15-78-10, *et. seq.*, including the limitations upon liability and damages, and exemptions from liability and damages contained therein, as a defense and/or bar to the allegations of the Plaintiffs' Complaint.

FOR A FIFTH AFFIRMATIVE DEFENSE

Punitive damages are not available against the District or its employees pursuant to *S.C. Code Ann.* §15-78-120(b) of the Tort Claims Act.

FOR A SIXTH AFFIRMATIVE DEFENSE

The District asserts that it is not liable for the damages, injuries, and losses claimed by the Plaintiffs, to the extent that such damages, injuries, and losses resulted from one or more of the

acts or omissions as listed in S.C. Code Ann. § 15-78-60(1) – (40), which the District affirmatively alleges were not done in a grossly negligent manner, included but not limited to:

- a) the District's adoption, enforcement, or compliance with any policy or procedure or its failure to adopt, enforce, or comply with its policies or procedures (*S.C. Code Ann.* § 15-78-60(4)); and/or
- b) the exercise of discretion or judgment by the District or its employees in the performance or failure to perform any act or service, which is in the discretion or judgment of the District or its employees (*S.C. Code Ann.* § 15-78-60(5));
- c) employee conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude (*S.C. Code Ann.* § 15-78-60(17));
- d) an act or omission of a person other than an employee of the District including but not limited to criminal acts of third parties (*S.C. Code Ann.* § 15-78-60(20));
- e) responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student of the District, except when the responsibility or duty is exercised in a grossly negligent manner (*S.C. Code Ann.* § 15-78-60(25)).

FOR A SEVENTH DEFENSE

The District would allege that Plaintiffs' claims against the District fail as a matter of law on the grounds that the Plaintiffs' injuries were not proximately caused by any act or omission of the District.

FOR AN EIGHTH DEFENSE

The District is not liable to the extent that any injuries and damages sustained by the Plaintiffs, as alleged in the Complaint were due to and were caused and occasioned by the intervening and superseding negligence, carelessness, recklessness, heedlessness, willfulness and wantonness of some other party and such intervening and superseding negligence, carelessness, recklessness, heedlessness, willfulness and wantonness was the direct and proximate cause of the injuries and damages sustained by the Plaintiffs as alleged in the Complaint.

FOR A NINTH DEFENSE

The District is not liable to the extent that any injuries and damages sustained by the Plaintiffs, as alleged in the Complaint, which are denied, were due to and were caused and occasioned by the Plaintiffs' own actions and/or acts of comparative negligence, carelessness, recklessness, heedlessness, willfulness, and wantonness, which acts on the part of the Plaintiffs, combined and contributed and concurred with any negligence, carelessness, recklessness, heedlessness, willfulness, and wantonness on the part of the District, which is denied, without which the alleged incident and resulting alleged damages would not have occurred or have been sustained. Accordingly, the District may be entitled to a determination as to the percentage with which the Plaintiffs' own comparative negligence, carelessness, recklessness, heedlessness, willfulness, and wantonness contributed to the incidents alleged in the Complaint and the Plaintiffs' alleged injuries and damages and to the reduction of any sum awarded to them by an equal amount to the percentage of the Plaintiffs' own comparative negligent, careless, reckless, heedless, willful, and wanton conduct.

FOR A TENTH DEFENSE

If at the trial of this action it is found that the District was in any way negligent or otherwise liable to the Plaintiffs, and that such negligence was the proximate cause of any injuries or damage to the Plaintiffs, which is expressly denied, then it is alleged that other actors are the true liable parties and that District is entitled to recover contribution from any other actor that is held liable for the claims alleged in this action with respect to any judgment, awards, costs, and expenses and attorney's fees that the Plaintiffs or any other party may recover from the District.

FOR AN ELEVENTH AFFIRMATIVE DEFENSE

To the extent that Plaintiffs have failed to mitigate their damages, Plaintiffs' claims for damages are barred, in whole or in part.

FOR A TWELFTH AFFIRMATIVE DEFENSE

Some or all of the purported claims in the Complaint are barred by the doctrines of waiver, release, accord, satisfaction, estoppel, quasi-estoppel, laches, or unclean hands.

FOR A THIRTEENTH AFFIRMATIVE DEFENSE

The District has, at all times, and in all dealings with Plaintiffs, acted in good faith and in compliance with any and all applicable laws.

FOR A FOURTEENTH AFFIRMATIVE DEFENSE

The District reserve the right to assert, and does not waive, any additional or further defenses, as may be revealed by additional information that may be acquired in discovery or otherwise.

FOR A FIFTEENTH AFFIRMATIVE DEFENSE

To the extent that the Plaintiffs allege that the Defendants are “jointly and severally” liable with any other party or entity, that allegation should be stricken and any request for relief based on that allegation denied because the South Carolina Tort Claims Act precludes joint and several liability and requires allocation of responsibility among the Defendants.

WHEREFORE, having fully answered Plaintiffs’ Complaint, the District prays that the same be dismissed with prejudice, together with the costs and disbursements of this action, and for such other and further relief as this Court deems proper.

Respectfully Submitted:

DUFF | FREEMAN | LYON, LLC

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Attorneys for Defendant Florence School District
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December 3, 2021
Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF FLORENCE	)	TWELFTH JUDICIAL CIRCUIT
	)	
IN Re: Hannah J. Secka, individually and	)	CIVIL ACTION NO: 2021-CP-21-02121
as parent and guardian for the minor	)	
M.Y.S.,	)	
	)	
Plaintiffs,	)	HANNAH J. SECKA, INDIVIDUALLY AND
	)	AS PARENT AND GUARDIAN FOR MINOR
	)	M.Y.S' MEMORANDUM OF LAW IN
	)	OPPOSITION TO DEFENDANT
	)	FLORENCE COUNTY SCHOOL DISTRICT
	)	ONE'S MOTION FOR SUMMARY
	)	JUDGMENT
vs.	)	
	)	
	)	
FLORENCE COUNTY SCHOOL	)	
DISTRICT ONE and FLORENCE	)	
COUNTY SHERIFF'S DEPARTMENT,	)	
	)	
Defendants.	)	
	)	

Plaintiffs, Hannah Secka, individually and as parent and guardian for the minor, M.Y.S.

by and through their undersigned attorney, hereby submits this Response in Opposition to Defendant's Florence County School District One's Motion for Summary Judgment. For the reasons discussed below, in response to the Defendant's memo, the Plaintiffs respectfully request that this Court deny the Defendant's motion for Summary Judgment.

CASE SUMMARY

This action was brought under the South Carolina Tort Claims Act (hereinafter, "SCTCA") by Hannah J. Secka, individually and as the parent and guardian of her then-minor child. M.Y.S alleging that Florence County School District One (hereinafter, "District") and the Florence County Sheriff's Department (hereinafter, "Sheriff") were gross negligence:

- a. In failing to comply with the provisions of the Safe Schools Act of 1990. S.C. Code Ann § 59-5-10, *et. seq.*, of the South Carolina Code of Laws, as amended;

- b. In being grossly negligent in the hiring, retention, and supervision of Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, Lisa Doyles, and Deputy Jablonski Green when the Defendant knew, had reason to know, or in the exercise of due care should have known, that these employees posed a serious threat of abuse and physical, mental and emotional harm to students making up the student body of Sneed Middle School and West Florence High School, and more particularly to the minor child herein;
- c. In failing to follow their school code of conduct for the District, which sets forth that each student has, *inter alia*;
- d. In failing to follow their harassment policies as set forth by the District and in failing to adequately In failing to timely and appropriately investigate and respond to the violent and abusive acts of various students, and more particularly, in failing to take adequate precautions to protect the minor child herein from physical, mental, and/or emotional harm;
- e. In being grossly negligent in the supervision of the minor child herein, when Defendant knew, had reason to know, or in the exercise of due care should have known, that, Kathy Luhrs, Matthew Dowdell, Jeff Lee, Christopher Coleman, Lisa Doyles, and Deputy Jablonski Green posed a serious threat of abuse and physical, mental, and emotional harm to children making up the student body of Sneed Middle School and West Florence High School, and more particularly to the minor child herein;
- f. In failing to recognize and adhere to the heightened standard of care with regard to students at West High School, and more particularly the minor child herein; and in failing to recognize that the conduct, acts, and/or omissions of the agent and/or employees involved an enhanced risk of harm to the minor child herein:
 - i. Each student has a right to be treated fairly and with kindness;
 - ii. Each student has the right to be safe and protected;
 - iii. Each student has the right to be respected as an individual;
 - iv. Each student has the right to a healthy environment to learn.

The depositions of the Plaintiffs, Dr, Richard O'Malley, Florence School District One Superintendent, Deputy Jablonski Green, former School Resource Officer Daisey Johnson former M.Y.S. paraprofessional i.e. shadow, and Dr. Sterling Harris, Ph.D., Plaintiffs' Expert has been taken in preparation for the of trail for this case. Dr. Harris testified to policies and

procedures required for Districts to ensure their schools are providing adequate supervision and protection from foreseeable injuries school Ex. 2A, Dr. S. Harris, Ph. D, Expert Dep. p. 1, In. 1-p. 6, In. 13 Dr. Harris had an extensive twenty-eight-year career in education South Carolina Ex. 2A, Dr. S. Harris, Ph. D, Expert Dep. p. 15, In. 11-p. 40, In. 1.

STATEMENT OF FACTS

During the academic school year 2017-2018, and academic school year 2018-2019, Plaintiff M.Y.S., a minor, was a student at Sneed Middle School and West Florence High School respectively in Florence County School District One. Compl. ¶ 5. Plaintiff M.Y.S, received special services when he was a student if the District's schools. On or about May 29, 2018, Kathy Luhrs while employed at Sneed Middle School wrote, "loyalty" with a black chemical marker on M.Y.S's arm without his consent or consent authorization. Compl. ¶ 16. Kathy Luhrs retired at the end of that academic school year

.From August 2018 through May 2020, Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyles were employees of West Florence High School. On or about October 17, 2018, M.Y.S. was attacked by several students in West Florence High School's athletic locker room resulting in physical injuries to his face and back. Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa Doyles did not conduct an investigation, prepare a report, or follow up with the Plaintiffs regarding the incident or the injuries sustained. Compl. ¶ 17. Kathy Luhrs was an M.Y.S. eighth-grade Algebra teacher at Sneed Middle School. Ex. 1, PLT FCSDO 000005-000008; Ex. 4, Hannah J. Secka Dep. p. 112, In. 13-18, Mathew Dowell was M.Y.S.'s principal the entire time M.Y.S. was a student at West Florence High School. Ex. 4, Hannah J. Secka Dep. p. 112, In. 19-24. Jeff Lee was the Junior Varsity football coach when M.Y.S. was attacked in

the football locker room. Ex. 4, Hannah J. Secka Dep. p. 113, In. 2-6. Christopher Coleman was the assistant principal at West Florence High School. Ex. 4, Hannah J. Secka Dep. p. 113, In. 15-22. Lisa Doyles was M.Y.S's resource teacher at West Florence High School. Ex. 4, Hannah J. Secka Dep. p. 113, In. 15 -p. 114, In. 4. Also, on or about August 2018 through May 2020, Deputy Jablonski Green, an employee of the Defendant Florence County Sheriff's Department, was assigned as the School Resource Officer at West Florence High School by the express approval and consent through a Memorandum of Understanding between Florence County School District One and Florence County Sheriff's Department. Compl. ¶ 19. On or about October 15, 2019, Deputy Jablonski Green was physically restrained by colleagues as he harassed, bullied, and assaulted the student and minor child, M.Y.S. while conducting an unauthorized interrogation of M.Y.S. in the presence of school officials on the premises of West Florence High School. Compl. ¶ 19.

STANDARD OF REVIEW

It is well established in South Carolina that when considering a motion for summary judgment under Rule 56, the evidence and its reasonable inference must be viewed in the light most favorable to the non-moving party. *Jones ex rel. Jones v. Enterprise Leasing Company-Southeast*, 383 S.C. 259, 678 S.E.2d 819 (ct. App. 2009). In determining whether any triable issue of fact exists, the evidence and all inferences that can reasonably be drawn must be viewed in the light most favorable to the non-moving party. *Medical Univ. of South Carolina v. Arnaud*, 360 S.C. 615, 602 S.E.2d 747 (2004); *Rife v. Hitachi Constr. Mach. Co., Ltd.*, 363 S.C. 209, 609 S.E.2d 565 (Ct.App.2005). If triable issues exist, those issues must go to the jury. *Mulherin-Howell v. Cobb*, 362 S.C. 588, 608 S.E.2d 587 (Ct.App.2005). Summary judgment is not

appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. *Gadson v. Hembree*, 364 S.C. 316, 613 S.E.2d 533 (2005); *Montgomery v. CSX Transp., Inc.*, 362 S.C. 529, 608 S.E.2d 440 (Ct.App.2004). Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. *Nelson v. Charleston County Parks & Recreation Comm'n*, 362 S.C. 1, 605 S.E.2d 744 (Ct.App.2004). The party seeking summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact. *McCall v. State Farm Mut. Auto. Ins. Co.*, 359 S.C. 372, 597 S.E.2d 181 (Ct.App.2004). Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. *Regions Bank v. Schmauch*, 354 S.C. 648, 582 S.E.2d 432 (Ct.App.2003). Rather, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial. *Rife*, 363 S.C. at 214, 609 S.E.2d at 568. Because summary judgment is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues. *Helena Chem. Co. v. Allianz Underwriters Ins. Co.*, 357 S.C. 631, 594 S.E.2d 455 (2004); *Hawkins v. City of Greenville*, 358 S.C. 280, 594 S.E.2d 557 (Ct.App.2004).

DISCUSSION

A. Plaintiff has pled facts sufficient to establish genuine issues of material facts sufficient to survive Defendant's Motion for Summary Judgment.

Under Rule 56, SCRCp, a party is entitled to judgment as a matter of law if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact. "Summary judgment is appropriate when it is clear there is no genuine issue of material fact and the conclusions and

inferences to be drawn from the facts are undisputed.” *McClanahan v. Richland County Council*, 350 S.C. 433, 437, 567 S.E.2d 240, 242 (2002). A party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991). A party opposing a motion for summary judgment may not rest on the mere allegations of his pleadings but must set forth specific facts showing that there is a genuine issue of material fact to be considered by a jury. *Thomas v. Waters*, 315 S.C. 524, 445 S.E.2d 659 (Ct. App. 1994). In determining whether any triable issues of fact exist, the evidence and all inferences that can be reasonably drawn therefrom must be viewed in the light most favorable to the nonmoving party. *Vermeer Carolina’s, Inc. v. Wood/Chuck Chipper Corp.*, 336 S.C. 53, 518 S.E.2d 301 (Ct. App. 1999). If triable issues exist, those issues should be submitted to the jury. *Young v. S.C. Dept. of Corrections*, 333 S.C. 714, 718, 511 S.E.2d 413, 415 (Ct. App. 1999). In the instant case, Plaintiffs’ claims were filed timely. Plaintiffs have shown that a genuine issue of material fact exists as to whether Jeff Lee, the football coach, and Mathew Dowdell’s conduct were “extremely reckless”. The plaintiffs’ claims are based on the District employee’s failure to act, not the students’ intentional conduct. Further, the claims are not towards individual employees named in the complaint, but rather those individuals in their capacity for the District. Compl ¶¶ 21-25. Dr. Harris’ testimony supports the Plaintiffs’ position. Dr. Harris’s testimony establishes the Plaintiffs have met their burden of proof to defeat a Defendant’s Motion for Summary Judgment. During Dr. Harris’s deposition, he was provided a picture where it appeared that a teacher wrote on a student. Ex. 3, M.Y.S Dep. p. 77, In. 2 -p. 88, In. 8. Ex. 1, PLT FCSDO 000011. Specifically, he testified that such an incident should never occur when he saw the picture of the student with the word “loyalty” written on his arm by an instructor. Dr. Harris

further stated that there is no manner, no instance, or at any time where a teacher should write on a student for any reason. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 68, In. 3-p. 71, In. 15

Further, Dr. Harris testified that within any type of locker room for any activity. M.Y.S. testified that while he was changing after football practice two white students started calling him fresh meat and started acting gay and stuff while getting closer to him. One student grabbed his pants while he was putting them on. Ex. 1, PLT FCSDO 000009-000010 M.Y.S, was forced to defend him and received bruises during the altercation. M.Y.S.Dep. p. 88, In. 20-p. 98, In. 28. Dr. Harris reviewed some photos where M.Y.S had been hit or slapped from the front and bruises and scratches were on his back. Ex. 1, PLT FCSDO 000009-000010. Dr Harris testified that especially during extracurricular activity, there has to be some adult supervision in any area where you have kids for a certain period of time that are involved with the school. Since no information was provided that there was a coach in the locker when the incident occurred the principal should have questioned the athletic director or coach in terms of a situation like this occurring. Also, then there should have been some information provided for some follow-up, such as a follow-up investigation of what occurred in the locker room, whether it be taking statements from different students on the team, or different players, to get an understanding of just what happened in terms of when there's an allegation like this that is made. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 55, In. 12-p. 59, In. 13.

B. Plaintiffs' claims are not towards individual employees named in the complaint, but rather for the school District, because of the conduct of those individuals in their capacity as employees.

Defendant has alleged that Plaintiff has failed to demonstrate any tortious or injurious conduct by District employees. In M.Y.S.'s deposition, he specifically stated that a teacher wrote on his arm in Sharpie. M.Y.S. Dep. P. 78. Further, he stated that he was not the only student who had been marked with a "tattoo" by his teacher. *Id.* This conduct is not only tortious but falls beyond the scope of what a reasonable educator would have done. Defendant's expert witness, Dr. Harris stated it is his opinion that the conduct fell outside of the scope of what a reasonable educator would have done and that he felt it was reasonable for the minor and their parent to pursue legal action as a result of such conduct. Dr. Harris's testimony clearly establishes the Plaintiffs have met their burden of proof to defeat a Defendant's Motion for Summary Judgment in this regard. During Dr. Harris's deposition, he was provided a picture where it appeared that a teacher wrote on Plaintiff M.Y.S.'s arm. Specifically, Dr. Harris testified that such an incident should never have occurred when he saw the picture of the student with the word "loyalty" written on his arm by an instructor, Ms. Luhrs. Dr. Harris, further stated that there is no manner, no instance, or at any time where a teacher should actually write-on a student for any reason. Ex. 1, PLT FCSDO 000011(Teacher Writing on Arm) Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 68, In. 3-p. 71, In. 15. Based on this, whether the conduct of the teacher was grossly negligent is an issue of material fact that should be decided by a jury.

Furthermore, the actions and inaction of Assistant Principal Doyles, Resource teacher Coleman, Principal Dowdell, and Coach Lee provided the necessary information to the jury to establish that many Florence County School District One Employees knew about the need for heightened care when supervising M.Y.S. Plaintiffs have provided testimony to show that the care was not taken, and as a result of this failure by the District employees collectively, M.Y.S. has suffered actual and emotional damages.

In this instance, the failure of the District's employees to protect M.Y.S. was testified to by Dr. Harris during his deposition. Dr. Harris testified to the District's failure to protect M.Y.S. during extra-circular activities while he was in the football locker room. Also, while M, Y, S were being questioned by the SRO Jablonski Green. Specifically, Dr, Harris testified that that taking into account what occurred, seeing that the disability has to do with some behaviors, to the point that the student had a shadow, means that, to me as a principal, there had already been some predetermined fears or a predetermined idea that the student could react emotionally as having bad reactions with other students or teachers. So that if the student is being questioned in that manner and the parents are not there, whoever the person doing the questioning has to be directly aware of it. Otherwise, in my opinion as a principal, I wouldn't want an employee to be put in a position where they're setting off those triggers without full knowledge of the student's disability. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 61, In. 2-p. 64, In. 15.

C. Plaintiff's claim is not barred by the SC Tort Claims Act Statute of Limitations because Plaintiff M.Y.S. did not reach the age of majority until January 7, 2022.

The defendant is correct in its application of the statute of limitations for claims brought pursuant to the SC Tort Claim Act, but their memorandum failed to acknowledge the exception granted for claims brought by disabled plaintiffs. The SC Tort Claims Act provides an exception to §15-78-110 for infant plaintiffs. "If a person entitled to bring an action under Chapter 79 of this title, is at the time of the cause of action accrued within the age of eighteen years, the time of disability is not a part of the time limited for the commencement of the action, except that the period within which the action must be

brought cannot be extended: (a) more than five years by any such disability, except infancy; not (b) in any case longer than one year after the disability ceases.” S.C. Code Ann. §15-3-40.

Defendants have erroneously asserted that Plaintiff’s claims for specific conduct that occurred before the complaint was filed on September 26, 2021, are time-barred by §15-78-110. M.Y.S. did not reach the age of majority until January 7, 2022, M.Y.S. reached the age of majority, and the specific acts giving rise to this action occurred prior to that date. M.Y.S. could have brought these claims until one year passed reaching the age of majority, one year after the year his disability (infancy) ceased. Therefore, M.Y.S. had until January 7, 2023, to bring this claim despite failing to file a verified claim. Plaintiff M.Y.S.’s claim was filed timely.

Further, Plaintiff Hannah J. Secka's claims are timely filed because a statute of limitation starts to run when Plaintiff knows or should have known that. Plaintiff Hannah J. Secka was not aware of what occurred in the locker room until several months after the occurrence. Plaintiff Secka requested an investigation and meeting regarding the incident in the locker room but to no avail. She was not aware of what occurred in the locker room until October of 2019, which makes the complaint timely filed as it relates to this issue.

Further, the incident involving SRO Green was not solely brought against the Florence County Sheriff’s Office but also brought against Florence County School District. The District’s failed to protect M.Y.S. As stated above per, Dr. Harris's testimony, M.Y.S. should have been questioned by a School Administrator and not SRO Green. Therefore, Plaintiff M.Y.S. and Plaintiff Hannah J. Secka have claims that should survive Defendant’s Motion for Summary Judgment on statute of limitation violations.

D. Plaintiffs have pled facts sufficient to establish damages for emotional distress because a reasonable jury could find the conduct of District employees to be “extremely reckless”.

South Carolina courts have recognized that an individual’s negligent conduct can be so gross as to amount to recklessness. *See Berberich v. Jack*, 392 S.C. 278, 287, 709 S.E.2d 607, 612 (2011); *Jeffers v. Hardeman*, 231 S.C. 578, 582, 99 S.E.2d 402, 404 (1957); *Grooms v. Marlboro Cty. Sch. Dist.*, 307 S.C. 310, 414 S.E.2d 802 (Ct. App. 1992). This is based on the principle that an individual’s conduct cannot be reckless where it was not at least grossly negligent. *See also* 18 S.C. Jur. Negligence § 9 (2012) (“Recklessness is a higher degree of negligence than gross negligence.”).

Recklessly indifferent conduct is the touchstone for recovery from emotional damages, where both the conduct and emotional injury are extreme. *Stephens v. United States*, Civil Action No. 0:16-cv-149-BHH, 2017 U.S. Dist. (D.S.C. Jan. 19, 2017). To recover under an intentional infliction of emotional distress theory, a plaintiff must establish (1) the defendant intentionally or recklessly inflicted severe emotional distress or was certain, or substantially certain, that such distress would result from his conduct; (2) the conduct was so “extreme and outrageous” so as to exceed “all possible bounds of decency” and must be regarded as “atrocious, and utterly intolerable in a civilized community;” (3) the actions of the defendant caused plaintiff’s emotional distress, and (4) the emotional distress suffered by the plaintiff was “severe” such that “no reasonable man could expect to endure it.” *Argoe v. Three Rivers Behavioral Health, L.L.C.*, 392 S.C. 462, 475, 710 S.E.2d 67, 74 (2011) (quoting *Hansson v. Scalise Builders of S.C.*, 374 S.C. 352,

356, 650 S.E.2d 68, 70 (2007)). During the trial and in their complaint, the Basses asserted their intentional infliction of emotional distress claim was based on DSS's reckless rather than intentional conduct. *Bass v. S.C. Dep't of Soc. Servs.*, 403 S.C. 184, 742 S.E.2d 667 (Ct. App. 2013). The ultimate conclusion generally hinges on whether a school District "knew or should have known" of the need to exercise control over a given situation. *Moore v. Berkeley Cnty. Sch. Dist.*, 326 S.C. 584, 486 S.E.2d 9 (Ct. App. 1998).

M.Y.S.'s mother informed an assistant coach for the football team that students were harassing M.Y.S. and that she was concerned for his physical safety and emotional well-being while participating on the football team. Ex. 1. PLT FCSDO 000012-000039 By failing to investigate the allegation, intervene with the players, or supervise M.Y.S. based on his knowledge of anticipated danger, the employee's failure to act proximately caused M.Y.S. to be both emotionally and physically harmed in the locker room with his teammates. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 61, In. 2-p. 64, In. 15 A reasonable football coach would have taken steps to protect his player from such harm, especially considering the vulnerable nature of M.Y.S. due to his mental condition. *Id.* The plaintiff has provided expert testimony from an educational consultant stating it is his opinion that there should have been action taken by this coach in this circumstance. *Id.* Based on how severe physical abuse in a football locker room could have become, the coach's conduct, and expert testimony stating what a reasonable educational employee should have done in that situation, a reasonable jury can find the conduct to be considered "extremely reckless". M.Y.S. has shown evidence of physical harm and it is reasonable for a child who already has emotional concerns to suffer extreme emotional harm from such conduct. Ex. 4 Hannah J. Secka Dep. p. 103, In. 8-p. 153, In. 5. Therefore, Plaintiffs have shown that a genuine

issue of material fact exists as to whether the football coach's conduct was "extremely reckless".

E. Plaintiffs have pled facts sufficient to prove gross negligence, and Plaintiffs' claim is based on the District employee's failure to act, not the students' intentional conduct, therefore immunity would not be proper.

The defendant has alleged in their motion for summary judgment that the District should be immune from claims of negligent supervision because the claim is based on the intentional acts of third parties. Def. Motion P. 18. Briefly, this argument should fail because Plaintiffs are not asserting that they are entitled to relief based on the acts of the students but rather the District employee's failure to act when given notice of potential danger, and reckless choice to not supervise M.Y.S. properly. M.Y.S.Dep. p. 88, In. 20-p. 98, In. 28. Ex. 5, Daisey Johnson Dep. p. 29, In. 9-p.42, In. 5. Therefore, the District should not be immune from the claim of negligent supervision.

CONCLUSION

Plaintiffs' claims were filed timely. Plaintiffs have shown that a genuine issue of material fact exists as to whether Coach Lee's conduct was "extremely reckless". Further, Plaintiffs' claims were based on the District employees, failure to act, not the students' intentional conduct therefore District's Motion for Summary Judgment should be denied.

EXHIBIT “2A”

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE) CASE NO.: 2021-CP-21-02121

IN Re: Hannah J. Secka,)
individually and as parent)
and guardian for the minor,)
M.Y.S.,)

Plaintiff,)

v.)

Florence County School)
District One, and Florence)
County Sheriff's Department,)

Defendants.)

DEPOSITION OF
STERLING B. HARRIS

Tuesday, December 12, 2023

10:12 a.m. - 12:20 p.m.

The deposition of Sterling B. Harris was taken before Kimberly C. Young, a notary public in and for the State of South Carolina, commencing on Tuesday, December 12, 2023, via Zoom video-conferencing, pursuant to Notice of Deposition and/or agreement of counsel.

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1 APPEARANCES

2 Attorney for Plaintiff:

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8 - - - - -

9 Attorney for the Defendant Florence School District One:

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11 DUFF FREEMAN LYON
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14 dlyon@dfdl-lawfirm.com

15 - - - - -

16 Also Present:

17 Hannah Secka

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25 Defendant's Exhibit Number 1

(CV)

Defendant's Exhibit Number 2

(Plaintiff's Supplemental Responses)

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STIPULATIONS

It is stipulated by and between counsel for the respective parties that all objections are reserved until the time of trial, except as to the form of the questions.

This deposition is being taken pursuant to the South Carolina Rules of Civil Procedure.

- - - -

The reading and signing of this deposition is waived by the deponent and counsel for the respective parties.

Whereupon,

STERLING B. HARRIS, being duly sworn and cautioned to speak the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY MR. LYON:

Q. Dr. Harris, my name is David Lyon. I'm an attorney assigned to this case to represent the Florence County School District One. As you know, this is the case of IN Re: Hannah J. Secka, individually and as parent and guardian for the minor M.Y.S. versus Florence County School District and the Florence County Sheriff's Department. By the way, it's my understanding

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1 that the case against the Sheriff's Department
2 has settled. I don't know if you know anything
3 about that at all. Okay. So the plaintiffs have
4 identified you as a person to provide expert
5 testimony in this case and so I'm here to take
6 your deposition to learn more about you and your
7 background and whatever opinion you may have
8 about this particular case. In fact, much of
9 these expert testimony depositions are inquiring
10 about your background and your expertise in a
11 particular area so that's sort of what I'm going
12 to focus on, for the most part, starting up
13 front. So the plaintiff, Mr. Caldwell, has
14 identified you as an expert witness in this case.
15 I assume you've agreed to provide them with your
16 expert testimony. Is that true?

17 A. Yes, it is.

18 Q. Okay. And that you've agreed to testify here
19 under oath in support of the plaintiff's lawsuit
20 against the school district. Is that right?

21 A. Yes.

22 Q. All right. Anytime -- maybe you're aware of
23 this, but anytime a party identifies an expert
24 witness -- hang on just a second, I'm gonna move
25 my -- okay. Anytime a party identifies an expert

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1 witness, that party has to explain, essentially,
2 what the expert is going to testify about. And
3 I'd like to show you what Mr. Caldwell has told
4 us you're going to testify about, if you don't
5 mind.

6 A. Okay.

7 Q. I'm going to -- just to confirm that that's what
8 we're here to learn. All right. Can you see my
9 screen here?

10 A. Yes.

11 Q. All right. It says, again, the question here is
12 identify the person you wish to call as an expert
13 witness, etcetera, and name, address, particular
14 field of expertise, etcetera. And he has
15 identified you this way: Dr. Sterling B. Harris,
16 PhD, Educational Consultant and Retired Director
17 of Curriculum, Instruction and Assessment.
18 That's correct, right?

19 A. Yes. Yes, actually I'm retired as an Executive
20 Director, but that's fine.

21 Q. Okay. All right. Fair. We'll get into some of
22 that. And then this is what he is -- Mr.
23 Caldwell has suggested that you will provide
24 expert testimony on. First off, is this your
25 current address right here, 13 Hatrick Court?

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1 A. Yes, it is.

2 Q. All right. And then it says Dr. Harris is an
3 educational consultant and retired teacher,
4 principal and executive director of curriculum
5 instruction, and assessment for South Carolina
6 public schools. He's expected to testify to
7 policies and procedures required for districts to
8 ensure that their schools are providing adequate
9 supervision and protection from foreseeable
10 injuries for students with individualized
11 education programs, IEPs, while attending
12 schools. Is that correct?

13 A. Yes.

14 Q. Okay. Anything to -- it's very important for me
15 to know, you know, what you're identified as an
16 expert to testify to. So is there anything in
17 that that could be stated better or you wish to
18 add or subtract any of that?

19 A. No, that's fine.

20 Q. Okay. All right. All right. Well, I will stop
21 my share here. All right. So my first question
22 is just some background type questions. Have you
23 ever been deposed before?

24 A. No, not that I can think of.

25 Q. Okay. All right. So this is your first

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1 accompany this deposition transcript.

2 COURT REPORTER: Okay. I'm gonna
3 mark it and I'm going to turn my screen off so
4 you can share it without interruptions.

5 MR. LYON: All right. And you don't
6 have this, obviously, Kim, yet. I will send it
7 to you after.

8 COURT REPORTER: No problem.

9 MR. LYON: And I'll copy Darryl.

10 COURT REPORTER: Thank you.

11 BY MR. LYON:

12 Q. Okay. All right. So I want to sort of start
13 with your current work experience. It sounds
14 like you were tell -- I think you testified that
15 you were talking with Mr. Caldwell about what you
16 currently do and that's sort of what led him to
17 talk to you about being a witness in this case.
18 So I assume your current work is educational
19 consultant for SBH Administrative and Leadership
20 Services, LLC. Tell me what that is, please,
21 sir.

22 A. Yeah, that's my LLC. I have a -- I do consulting
23 work. I retired fully from the state back in
24 2019 and I established an LLC, which works with
25 principal training and principal mentorship. And

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1 so through that LLC, I work with my own
2 individual districts that I've contracted with to
3 help work with their principals on setting up
4 their schools and matriculating into the
5 principal role when they're first, you know, one
6 through five years of principalship. And then I
7 also do some consulting work for SKC Consulting,
8 which is a group out of Atlanta, where I work
9 with some principals in Alabama. And what I do
10 is I work with them filling their schools,
11 looking at not only their -- how they're set up
12 to address curriculum needs, but how they're set
13 up to address management, school culture, climate
14 and safety.

15 Q. All right. When you're doing your training for
16 South Carolina schools, you know, I won't ask you
17 to tell me which schools you worked for, but
18 let's say over the past six months, how many --
19 how many schools or school districts have you --
20 have you consulted with?

21 A. In South Carolina?

22 Q. Yes, let's focus on South Carolina.

23 A. I'm working for just -- yeah, I'm just working
24 with one district in South Carolina in the last
25 six months.

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1 Q. Okay.

2 A. Well, actually --

3 Q. How about the last year?

4 A. Well, two districts. I've done some -- I've done
5 some individual PD for another district, so I
6 would say two districts.

7 Q. Okay. All right. And with -- and that's in the
8 past six months. How about in the past year,
9 would that number be about the same?

10 A. Yeah, for in -- for South Carolina districts,
11 yes.

12 Q. Okay. And what kind of -- you know, how much
13 time do you spend on a particular, you know,
14 consulting project? Or tell me about the one
15 you've been working on for the past six months, I
16 mean, how frequently are you doing work for them?

17 A. Okay. I do about three full days or three at
18 least half full days a month with one of the
19 districts. And then the other district that I've
20 done professional development with for the past
21 two summers, I've normally done about three full
22 days with them. And that just --

23 Q. Okay.

24 A. Yeah.

25 Q. Well, I note here that your last job in the -- in

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1 the school systems was Marlboro County. Is that
2 who you're consulting with? I know they've got
3 some consultants out there.

4 A. Oh, yeah. No, no, I'm not -- I'm not consulting,
5 no, in Marlboro. That's where I retired from. I
6 was the executive director for curriculum,
7 instruction.

8 Q. Okay. So you sort of do professional
9 development, is that the kind of thing you do?
10 Or you --

11 A. No. I do -- well, I do -- yes, I do professional
12 development for some various specific topics with
13 one district during the summer, and that one has
14 to do with school culture. The other topic with
15 that district has to do with discipline in terms
16 of classroom management, supervision, procedures
17 and routine. The district that I work with where
18 I'm doing about three days a month, that's
19 working directly with the principals in both of
20 those schools and it encompasses everything from
21 curriculum to master scheduling to academic
22 intervention to building culture, setting up
23 routines, discipline, anything that would be
24 under the purview of the principal, to help the
25 principal become more experienced in his or her

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1 position.

2 Q. Would you -- I know a lot of districts are having
3 to, for various reasons, you know, outsource to
4 consultants such as yourself what may have been
5 in the past, you know, a full-time type position
6 at a school district. So, you know, there are
7 some districts that have like outsourced their
8 HR. And it almost sounds like you've been given
9 the task of, I don't even -- what would be the
10 equivalent task that you're sort of filling in
11 right now as a consultant in a school district?

12 A. With -- within that district, it's more of it
13 would be like an executive coach, executive
14 mentor for principals.

15 Q. Okay.

16 A. So it's a support system for the principals who
17 are normally in their first principalship or very
18 young in their principalship role as an added
19 layer to help them develop concepts that would
20 make them a successful principal and also to help
21 them with some of the challenges that come along
22 with overseeing a school building.

23 Q. Okay. I think I -- I think I understood. So
24 sort of a coaching of new-ish type school
25 district principals; is that --

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1 A. Uh-huh.

2 Q. Okay. Now, with the group out of Atlanta, SKC,
3 have you been working with them since 2019 as
4 well?

5 A. No. I've been working with them the last two
6 years.

7 Q. Okay.

8 A. So that -- yeah, last two years.

9 Q. So I Googled them and it looks like there's a lot
10 of stuff going on with like India. Do you know -
11 -

12 A. Yeah, that's not -- it's SKC Development Company.

13 Q. SKC Development Company?

14 A. Yeah, LLC.

15 Q. All right. And so, all right, and you were
16 telling me you do some work with principals in
17 Alabama. So what kind of things do you do for
18 them?

19 A. I have about -- I have -- I work with seven
20 different schools in that district with their
21 principals in those schools, and I do the same
22 type thing. I'm working with them in terms of
23 improving the academic supervision of their
24 schools and what they're doing in enhancing and
25 growing the academic capacity of their teachers.

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1 I also work with them on helping them to, those
2 principals, to learn how to set up their
3 supervision models of their schools, to set up
4 the documentation needed to successfully run the
5 school and lead those schools academically and as
6 far as a campus coordination concept.

7 Q. Okay. And how frequently are you working for
8 that group and those seven schools I think you
9 said in Alabama?

10 A. I go -- I spend a week down there each month. So
11 I go down at least one week a month. There are
12 sometimes where I have to go more than that one
13 week.

14 Q. All right. Okay. So it looks like your last job
15 with the public school system was Marlboro
16 County; is that correct?

17 A. Yes. Yes, I retired from Marlboro County.

18 Q. All right. And I got here from your CV, 2016 to
19 '17, Director of Curriculum, K through 12. And
20 then 2017 through 2019, Chief Officer for
21 Curriculum, Instruction and Assessment. Is that
22 --

23 A. Yes.

24 Q. Those -- are those related positions and did they
25 change the name on you? Is that what happened

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1 there? Or is that like you got promoted?

2 A. My first year I was director of curriculum pre K-
3 12. I worked under an executive director. I was
4 a part of the district office but I worked under
5 an executive director. The next two years I was
6 promoted to chief officer, which was a senior
7 cabinet position, where I was over all
8 curriculum, instruction and assessment for all
9 the schools in Marlboro County and that's what I
10 retired from.

11 Q. Okay. And was that -- let's see, '17 through
12 '19, that's going to be Dr. McCord?

13 A. No, my last year I worked under Dr. McCord. I
14 worked, the first year I got there, I worked
15 under Dr. Tiller.

16 Q. Yes.

17 A. And then I worked the second year when I moved to
18 chief officer, I worked under Dr. Lane who held
19 that position. And then when Dr. McCord was
20 hired, I worked under him in my final year before
21 retiring.

22 Q. Okay. And as director of curriculum, who did you
23 report to? Was that Dr. McLeod?

24 A. No. As the director of curriculum, I reported to
25 Dr. Lane.

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- 1 Q. Oh, Dr. Lane.
- 2 A. Yeah.
- 3 Q. I remember him as well. All right. All right,
- 4 well, tell me a little bit about your duties as a
- 5 chief officer for curriculum, instruction and
- 6 assessment.
- 7 A. My duties there, I was over all of the schools.
- 8 So I had -- I served to help supervise
- 9 principals, I did their principal evaluations. I
- 10 also was in charge of vetting and looking at
- 11 programs that we brought into the district,
- 12 consultants, things in the academic arena in
- 13 order to address student scores and student
- 14 achievement. I also, at that time, supervised
- 15 the director of the Title I Program, so I
- 16 supervised everything that had to do with Title I
- 17 in terms of grants, programs that were paying for
- 18 for Title I. And also, I was responsible for
- 19 supervising and visiting school sites to
- 20 evaluate.
- 21 Q. All right. So it looks like you spent, I don't
- 22 know, ten years as a principal.
- 23 A. No, I spent more than that.
- 24 Q. More than that.
- 25 A. I spent -- yes, I spent six years as a principal

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1 at North High School, three years at Fairfield
2 Central, two years at Cross High School as a
3 principal. I spent two years at Sumter High
4 School -- I mean, in Sumter as a principal, and
5 then two years in Blackville. So I think my time
6 as a principal --

7 Q. It's more like 15 years, it looks like.

8 A. Yeah, probably 15, 16 years as a principal.

9 Q. Okay. And my fault for not doing -- looking at
10 the wrong number column there. So it looks like
11 you started out as a band director.

12 A. Yeah, I was a band director.

13 Q. Okay. What's your principal instrument?

14 A. Trombone.

15 Q. Okay. All right. And so from, let's see, I
16 guess you were a band director for --

17 A. Edisto High School from '91 to '97.

18 Q. Okay. Now, let's see. Looks like you've moved
19 around a lot as a principal from -- and you
20 served in various counties. Is that right?

21 A. Yes.

22 Q. And various districts around the state?

23 A. Uh-huh.

24 Q. Was there any reason for you moving?

25 A. Well, actually I didn't move physically. I

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1 always lived in Columbia.

2 Q. Okay.

3 A. And most of the time my moves were based on my
4 previous success. I was principal at North High
5 School for six years, we had a lot of academic
6 success there, and so when I was hired in
7 Fairfield, they were having some academic
8 problems with the high school and so it was an
9 offer that was made where I was hired in
10 Fairfield and I was there for three years and had
11 some academic success there that got their high
12 school off of some state watchlists. When I left
13 Fairfield, there was a year, this is prior to Dr.
14 Green getting there, where they had gone through
15 multiple superintendents. And so at that time I
16 was available when I was hired by a
17 superintendent in Berkeley County to come down to
18 Cross High School, which was a small high school
19 that they were trying to get some improvement
20 academically. So I was at Cross High School for
21 a couple of years and I was hired to Sumter High
22 as they went through their first consolidation.
23 And they were searching for a principal that had
24 a good amount of success across varying schools,
25 large schools and small schools. And so they

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1 came to me and that's when I went to Sumter and I
2 was at Sumter for two years. Sumter went through
3 a superintendent change at the time and there was
4 a lot of instability at the time that that
5 happened. And so that's when I was hired to be
6 the principal at Blackville-Hilda High School.
7 And in that capacity, I served as principal but I
8 also kind of served as a pseudo assistant to the
9 superintendent in that role. I was able to kind
10 of do both; work as a principal and help the
11 superintendent in that role. And from that role
12 is when I was hired to Marlboro County as the
13 director of curriculum. And so all those are
14 just progressive. As you have success, districts
15 come after you. And they -- that was a
16 progression to a district office position and
17 that's where I stayed until I retired.

18 Q. Okay. There is also something on here, it says
19 Brewington Academy in Sumter. I don't know that
20 one.

21 A. Yeah, that's -- that's in Sumter High School.

22 Q. Oh.

23 A. It's a -- it's -- yeah, I was principal at Sumter
24 High and they went through a superintendent
25 change and the superintendent came in there or

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1 they brought a superintendent out of retirement,
2 interim, who moved everybody around. So I was
3 moved to Brewington that year. They moved, I
4 think, ten or 15 principals in one day. And so I
5 was moved to Brewington, which was a consolidated
6 alternative school. And so I served there as
7 principal for a year before going to Blackville.

8 Q. Okay. All right. And my next question, I think
9 you've sort of answered it, but I just, it's a
10 question I have to ask and I mean no disrespect.

11 A. Uh-huh.

12 Q. Were you ever -- were you ever terminated from
13 any of those jobs?

14 A. No.

15 Q. Okay. And did you ever resign in lieu of
16 termination?

17 A. No.

18 Q. Okay. Ever not renewed?

19 A. No.

20 Q. Okay. Has the Department of Education ever taken
21 any action to suspend, or otherwise, your
22 license, your teacher license?

23 A. No.

24 Q. Okay. Do you know if you were ever reported to
25 the Department of Education for educator

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1 misconduct?

2 A. No. There was -- when I was at Sumter High
3 School, there was an accusation of a testing
4 violation. But once it was investigated, we
5 received documentation back that the violation
6 was unfounded.

7 Q. Okay. All right. Did you ever apply for a
8 superintendent job?

9 A. Yes, at Blackville-Hilda, Blackville Schools.

10 Q. Okay. So is there a -- isn't there a
11 certification that you get to be able to be a
12 superintendent or not?

13 A. Yeah. I'm certified as a superintendent in the
14 state.

15 Q. You are?

16 A. Yeah.

17 Q. Okay. All right. So when did you apply for that
18 position? Back in 2016 when you were there?

19 A. Yes, uh-huh.

20 Q. Okay. Have you ever served on a school board?

21 A. No, I have not served on a school board.

22 Q. Okay. So based on what you've told me, looking
23 at your CV and your success at these schools, it
24 seems to me that that's -- that success has been
25 sort of rooted in academic achievement and

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1 approving -- improving the academic achievement
2 at schools. Is that -- is that accurate?

3 A. Yeah, that is accurate. And I've received some
4 success for school culture and awards of that
5 manner. In my first school, in addition to the
6 academic awards that we received, we were also
7 named a Red Carpet Award winner for drastically
8 changing school culture and climate.

9 Q. All right. Speak to me about -- well, first, I'm
10 curious about your academic success. What's the
11 secret sauce?

12 A. Well, you know, one is relationships. One is
13 understanding curriculum and growing the capacity
14 of the teachers within the building. The other
15 is creating a climate to be able to retain
16 teachers in the building and to set clear
17 expectations for students in terms of not only
18 academic interest but also in terms of behavior
19 and in terms of what's expected. And I just
20 developed a plan for my first school. A lot of
21 it was -- a lot of the rules and the things that
22 I used were rooted in things I learned as a band
23 director because you have to learn great
24 organization as a band director. Oftentimes
25 you're with your band on weekends on the road,

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1 buses, you're having to manage kids, manage
2 parents, so I felt like I was a lot better
3 prepared as a -- as a principal to handle some of
4 those extra things that you have to do that kind
5 of pieces the glue together to make for a
6 successful school.

7 Q. Okay, understood. So you listed on your CV, and
8 I think I'm still showing it here, some of these
9 presentations, trainings and workshops. And,
10 again, it looks to me like a lot of these are --
11 I'm looking at engaging technology to improve
12 student academic achievement in classrooms,
13 closing the achievement gap, diversity of the
14 classroom, learning styles. There's one back
15 here in '98, you served on the code of conduct
16 committee. Have you -- have you ever done any
17 presentation on the topic of your expert opinion
18 today which again is policies and procedures
19 required for districts to ensure that their
20 schools are providing adequate supervision and
21 protection from foreseeable injuries for students
22 with IEPs?

23 A. Well, as you noted earlier, I served on a code of
24 conduct committee when I was the assistant
25 principal in Richland School District One. And

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1 that was -- and that committee worked on
2 basically rewriting the code of conduct for
3 Richland School District One, looking at all of
4 the different procedures that are needed for
5 student safety and student conduct. I also did a
6 little work back during that time with the
7 Governor's Gang Task Force. I was one of the
8 educational representatives working with that.
9 And so at that time, we worked on the different
10 barriers, some of the different interests that
11 were coming in from some of the increased gang
12 activity and working on policy and procedures.
13 Also, a big part of my -- you asked me the secret
14 sauce, what is the secret sauce to what I did. A
15 big part of it was establishing policies and
16 orders not only for teachers but for students in
17 my school. You know, I've always felt like kids
18 can't learn and teachers can't teach in chaos.
19 And so a big portion of the academic improvement
20 was having a structure for expectations and
21 discipline in the classroom, as well as
22 discipline in the hallways, as well as the
23 discipline and procedures for a school. And so
24 most of my schools, one big part of it was having
25 procedures and routines for almost everything we

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1 did so that there was no gray area in terms of
2 expectations.

3 Q. Okay. Surely there's some gray area all the time
4 with regard to policies and procedures, right?

5 A. Yeah, there's -- there may be some gray areas in
6 terms of how something came about and how it
7 played out, but as far as -- what I mean by no
8 gray areas is in terms of what's the expectation,
9 what's the policy, you know, what's the policy,
10 what's the procedure, what's a board policy and
11 what's practice at school.

12 Q. I don't see any publications or journals or
13 anything like that. Have you ever done anything
14 like that in your career?

15 A. My main publication has been my dissertation.

16 Q. Okay. And that says up here, explain that to me,
17 "Determining the change, styles, preferences of
18 principals in South Carolina secondary schools
19 with a background in fine arts."

20 A. Yes. What that has to do with is, as I said
21 before, I work with a lot of principals and
22 coaching them in executive coaching to help them
23 to prepare to adapt their role of how they're
24 going to run the school, and my dissertation had
25 to do with there's a different style of running

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1 schools that becomes apparent from those with
2 fine arts background than those that don't have a
3 fine arts background. Many people that go into
4 the assistant principalship or principalship
5 administration, sometimes they're coming from a
6 classroom where they were an English teacher or a
7 math teacher. My dissertation dealt with the
8 contrast in how those persons lead a school
9 versus someone like me with a fine arts
10 background. As I mentioned earlier, I felt
11 better prepared for the principalship being a
12 band director because as a band director I had to
13 deal with a budget, I had to deal with a booster
14 club, I had to deal with parents through that
15 booster club and setting up officers. I had to
16 deal with accounting issues with the booster club
17 to make sure that people weren't -- fundraisers
18 that we were using, that money wasn't
19 misappropriated. As a band director, I also had
20 to deal with moving kids, not just teaching kids
21 and there being a bell ring and they move to the
22 next class but actually putting 180 kids on four
23 buses and taking them as far as Virginia Beach,
24 as far as Orlando, Florida. Arranging for rooms,
25 arranging for rooming assignments, arranging for

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1 bed checks, arranging for safety, being able to
2 monitor what goes on on the bus, as going to band
3 competitions, being able to monitor what happens
4 when kids would go into dressing rooms when we're
5 changing into uniforms, out of uniforms, assuring
6 for kids safety, oftentimes taking kids away for
7 a weekend and bringing them back home safe to the
8 parents. So all of that, band directors, choral
9 directors, orchestra directors have done in
10 growth as a teacher and a lot of those help you
11 to design the routines and the procedures that
12 you understand have to happen when your
13 basketball team is traveling, when your football
14 team is traveling, or your football team is just
15 at home or your band is at home, and so it gives
16 you a different perspective. And then also, in
17 addition to all those procedural things, working
18 with kids to become better in whatever
19 performance you're doing, it allows you to see --
20 take kids at a certain level and understand those
21 prescriptions that might help them move to the
22 next level. And so my dissertation talked about
23 how there's a difference in how those teachers
24 with a fine arts background lead a school as a
25 principal, assistant superintendent or

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1 superintendent lead a district versus those who
2 don't have that background.

3 Q. Okay. Thank you, that was -- that was very
4 clear. I appreciate that. And just to clarify,
5 you said that was your primary publication. Are
6 there other publications out there?

7 A. No, that was the -- that's the only publication
8 I've done that I've had published.

9 Q. Okay. Sounds good. Now, again, your area of
10 expertise, as we've just discussed here, has to
11 do -- well, it involves injuries for students
12 with IEPs. I don't see too much special ed IEP
13 stuff on your -- on your resume. Do you have
14 significant involvement with special education
15 and IEPs?

16 A. Well, in each school, I actually took a personal
17 role in terms of kids with IEPs. I normally
18 served as the -- as the administrator of record
19 with IEPs. And if you'll notice in my resume, if
20 you look down to the awards, early in my career
21 as a principal I was chosen as the Special
22 Education Principal of the Year in Orangeburg
23 County.

24 Q. Where am I seeing that? Let's see.

25 A. If you go down --

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1 Q. Oh, here it is, special education administrator.

2 A. Of the year.

3 Q. Okay. All right. Well, tell me a little bit
4 more about, you know, about your role in that --
5 in that regard.

6 A. How that happened was I always took a personal
7 role in the education -- special education
8 department as a principal. And so oftentimes,
9 instead of just leaving that to a director of
10 special education or the special education
11 department chair, I, as the principal, felt like
12 those kids were kids that have some of the
13 hardest challenges on the school so I wanted to
14 be personally involved. So even as an assistant
15 principal, the special education department was
16 one of my departments assigned to me as assistant
17 principal at Lower Richland High School. So when
18 I became a principal, I made a point of being
19 heavily involved in that. When I got that award,
20 it was not only for the fact that I would serve
21 as the LEA on the majority of my special
22 education cases, which was that person that sat
23 in on all of the IEPs, the 504 plans and things
24 of that nature, I also worked with the special ed
25 department to set up voc rehab at North High

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1 School where we actually got some of our kids who
2 were -- who were in our emotionally disabled
3 class or our self-contained classes to develop
4 partnerships with the Columbia Airport, some of
5 the local grocery stores, so that they, in their
6 last couple of years on our campus, came to
7 school for class but also midday went and did
8 work internships with those groups. And what
9 happened was eventually those kids, when they got
10 ready to matriculate out of North High School, a
11 number of those kids received jobs in those
12 internships where they worked, so they were able
13 to actually work in any area. So I've always had
14 -- I've just taken an improved interest. And
15 some of my efforts to work with special ed
16 students to make sure that they were getting all
17 of the rights that they needed became recognized
18 and I was chosen as that Orangeburg Area Special
19 Education Administrator of the Year.

20 Q. Okay. Have you ever been involved in state
21 complaints to the Department of Education,
22 responding to those?

23 A. No.

24 Q. Okay. Have you ever been involved in -- do you
25 know what I mean when I talk about due process

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1 hearings in the special education context?

2 A. Locally in school districts, I've helped some --
3 with some, with some due process hearings, but
4 not --

5 Q. Yes.

6 A. Because I've not -- I've not had to go in and
7 give a deposition or anything. Just locally
8 dealing with anything that happens at the school
9 or within the district.

10 Q. So what would have been your role in that, in a
11 due process hearing?

12 A. Oftentimes, as a principal, I was involved with
13 some -- just providing some investigation and
14 notes of things that occurred with kids on my
15 campus and I had a -- you know, most of my
16 campuses were, we had a significant amount of
17 special ed students. I also, one of the
18 consultant jobs I did that was outside of the
19 last six months was I served for a year as the
20 contract hearing officer for Lexington Two. And
21 so I heard all of the hearing cases for Lexington
22 Two in that year. And so oftentimes, through
23 those hearing processes we worked through some
24 issues that have happened to happen with kids who
25 were in our disabled population.

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1 Q. So you've actually been a hearing officer in a
2 due process -- in due process cases?

3 A. I can't remember if it's exactly a due process
4 case, due process cases, but I've had to do
5 multiple hearings where we had attorneys come in
6 to determine, you know, what was going on with
7 the kid with special education in terms of not
8 only punishment but making sure that they
9 followed the right processes.

10 Q. Right. Okay. And you didn't have to ever
11 testify in that kind of case?

12 A. Not outside of the hearing. And then the hearing
13 officer, I actually served as the officer.

14 Q. Correct, yes.

15 A. So yeah, yeah.

16 Q. How many of those would you say you've done as a
17 hearing officer?

18 A. During that year, probably, it probably would
19 have been -- cases involving special ed kids,
20 probably I would say in the neighborhood of about
21 30.

22 Q. Okay. What year was that?

23 A. That would have been -- it was the year everybody
24 went back to school.

25 Q. Oh.

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1 A. After COVID.

2 Q. After COVID, got it.

3 A. Yeah, after COVID when all the schools went back
4 to on-campus school. I want to say it's the year
5 before last.

6 Q. Okay. All right. Is that -- in that role, are
7 you -- are you appointed? I guess, you joined a
8 team of people?

9 A. I was a contract hearing officer, so I wasn't --
10 I wasn't an employee of Lexington Two. They
11 contracted me through my LLC.

12 Q. Understood.

13 A. And so they, whenever hearings came from any of
14 the schools in Lexington Two, I would be called
15 and I would give the number of days that I would
16 come in the next week and they would schedule all
17 the hearings on those days.

18 Q. Okay.

19 A. And then I was sent the -- I would be sent the
20 files of the altercations and things that
21 occurred to review. And then I would come in on
22 those days and spend the whole day doing hearings
23 after reviewing the files.

24 Q. Okay. So were they -- were they special -- they
25 were all special ed hearings or some of them were

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1 A. I have not read those, I have not.

2 Q. Okay. All right. So, well, just to make sure
3 I'm asking my questions here that I wanted to ask
4 you. All right, so based on your review of the
5 allegations and some of the student records, do
6 you -- have you -- well, what is your -- let me
7 strike that last little bit. What is your
8 understanding of this lawsuit?

9 MR. CALDWELL: I'm going to object to
10 the form of that question. You can answer still
11 but I'm going to object to the form.

12 Q. Okay. Well, actually, I can try and answer --
13 I'll try and ask it again so it doesn't get an
14 objection. What do you think is -- no, I can't -
15 - I can't think of another way to answer it --
16 ask it. I'll just go with that. What's your
17 understanding of what this lawsuit is about?

18 MR. CALDWELL: Object to the form.
19 You can answer.

20 A. Okay. My understanding is I looked at the
21 information that I had been given is that there
22 was an incident that occurred I guess in the
23 locker room. I don't know if it's after a
24 football game or after a practice. But within
25 that incident, there was some physical contact

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1 between the young man and some of the other
2 players or teammates on the football team from
3 which some injuries occurred to his back and his
4 face. And that from the emails I've read that
5 were addressed to Mr. Johnson, that mom felt like
6 this is an attack or the student felt like this
7 was an attack or some type of assault and asked
8 them to look into that. And from the information
9 I've received or looked at, I didn't see any
10 follow-up in regards to some resolution in
11 regards to what happened, what occurred, if there
12 were some punishments meted out or not. And so
13 that's my understanding of what I believe.

14 Q. Okay. Is that essentially all that you
15 understand to be the focus of this lawsuit?

16 A. Well, yeah, the question of what occurred in
17 there and also I guess what type of supervision
18 was provided to keep this from occurring in
19 regards to when you have students and they are at
20 a school function where there is actually people
21 that are over them, whether it be coaches,
22 administrators, and what type of supervision was
23 supposed to be provided to I guess protect the
24 young man from this type of -- these type of
25 injuries.

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1 Q. So what are your understanding of the injuries?

2 A. Well, I've seen -- I've reviewed some photos with
3 some scratches on the back, it looks like some
4 scratches on the back, and I saw a photo from the
5 front where it looked like the I guess the young
6 man had been hit from the front. And so that's -
7 - that's the only understanding I have of the
8 injuries.

9 Q. Okay. What was the injury in the front?

10 A. It looked, the face, it looked like the young man
11 might have been hit or slapped. When I look at
12 the front, that's not as clear as the ones on the
13 back where there are scratches and the bruises.

14 Q. Okay. And, again, I got a packet of what you
15 received. And the packet I have is black and
16 white. Did you see color photos?

17 A. I think I saw color photos.

18 Q. Okay. And I mean it's hard to see what --
19 anything. Did you -- did those photos have a
20 date on them?

21 A. Not that I -- I can't recall if they had a date
22 on it. But when I -- they are color photos and I
23 guess I would say the young man is African
24 American, so of course bruises or -- I guess I'm
25 not sure if the bruises are more pronounced on a

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1 black and white or not. But there seemed to be
2 some bruises from what I reviewed, just in my
3 experience of being the principal and having to
4 break up many fights and bring in young men and
5 have to treat it as an adjudicated fight.

6 Q. What is -- explain the part about the fight to
7 me, what's the --

8 A. Over my time as principal, I have had to deal
9 with many students of many nationalities in terms
10 of fights.

11 Q. Okay.

12 A. So I'm used to seeing students, as a principal,
13 I'm used to seeing students and seeing bruises to
14 tell if something happened, even if they're not
15 pronounced.

16 Q. Okay.

17 A. That was just the response. You said you didn't
18 see any, you couldn't tell if there was any
19 bruising.

20 Q. Yeah, well, again, bad copies too also.

21 A. Okay.

22 Q. So you mentioned -- you mentioned something about
23 supervision. What do you know from this, from
24 what you've reviewed, about supervision at that
25 district in that locker room at that school?

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1 A. Well, I didn't receive any information that there
2 were any coaches or representatives in the locker
3 room when this altercation occurred. As a
4 principal and a principal coach and executive
5 coach, I advise all school personnel anytime that
6 students are in any area, that there is some
7 adult supervision until they exit the campus.
8 And I base that on occurrences that have happened
9 over my time as principal and also, as I said
10 earlier in this deposition, being a band
11 director, oftentimes having to take a band to
12 competitions and they've had to use dressing
13 rooms for my girls to get dressed and my boys to
14 get dressed, and ensuring that I have school
15 personnel in there in case something happens.

16 Q. Sure, yeah. And I think what you said was you
17 didn't receive any information saying that
18 somebody was in that room.

19 A. Yeah, who was -- yeah, I didn't -- I didn't
20 review any information that said that, you know,
21 this coach is in there in the locker room as they
22 change and turn in their stuff or this, you know,
23 this assistant or whomever would be in there.

24 Q. Okay. If a coach is in the locker room, is it
25 possible he's not going to see everything that

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1 A. No, I don't know.

2 Q. Well, let's get back to what you are here today
3 to talk about, which is policies and procedures
4 required for districts to ensure their schools
5 are providing adequate supervision and protection
6 from foreseeable injuries for students with IEPs
7 while attending school. So is there any opinion
8 that you have reached about policies and
9 procedures in this case based on what Mr.
10 Caldwell has provided to you?

11 A. Yeah, my -- I guess my only -- I have two
12 opinions. One is that within any type of locker
13 room for any activity, especially an
14 extracurricular activity, that there has to be
15 some adult supervision in any area where you have
16 kids for a certain period of time that are
17 involved with the school. So as I said, I didn't
18 receive information that there was a coach in the
19 locker room when this was occurring and so that
20 would be my first question as a principal, if I
21 was addressing my athletic director or coach in
22 terms of a situation like this occurring. And
23 then secondly, I didn't receive any information
24 about follow-up, a follow-up investigation of
25 what occurred in the locker room, whether it be

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1 taking statements from different students on the
2 team, different players, to get an understanding
3 of just what happened in terms of when there's an
4 allegation like this that is made. Because with
5 -- at -- my opinion is that in the absence of
6 having an adult in there that can provide, you
7 know, documentation to what he saw or what he
8 heard, as a principal, that would be my
9 conversation for both and making sure that if
10 something happened, if something didn't happen,
11 that there was a full investigation done and a
12 follow-up conference meeting with parents and
13 student or students involved.

14 Q. Okay. So those are your two primary -- so let me
15 -- okay. Sorry, scratch that. Those are your
16 two primary thoughts about this case; is that
17 accurate?

18 A. Yes, from reading the information. And then
19 making sure that if there -- if the altercation
20 occurred as stated in the documents that I've
21 seen, that everything that could have avoided it
22 took place in terms of if the student had been
23 complaining, I read -- I read an email where the
24 parent said that the student, I guess, told on
25 some students about having vapes and things of

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1 that nature. I'm not sure of the timeline that
2 that occurred, that email occurred before the
3 incident occurred or not. If it did occur, then
4 my next question as -- even as a school leader
5 would have been what did we do to investigate
6 that to ensure that this didn't happen. Because
7 that's a part of what we should be addressing in
8 our policies and procedures, in terms of
9 intimidation, harassment, bullying, those things
10 that are required for each district to have a
11 policy and procedure for per state law.

12 Q. Did you see any issues with the policies and
13 procedures that you reviewed? Did you -- did you
14 review some policies and procedures?

15 A. I looked at what was provided in the document in
16 regards to Florence School District One. It was
17 just a -- there was an employee document in there
18 that dealt with that, but I didn't see anything
19 in regards to the school policies. I know what
20 every school district in the state of South
21 Carolina is required to have in terms of
22 intimidation, harassment and bullying, and those
23 are pretty consistent across the districts. So
24 when I saw the email requesting that Coach
25 Johnson look into it, my opinion and question was

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1 was this done, was there a way to prevent the
2 altercation.

3 Q. All right. So you said that school districts are
4 required to have policies regarding --

5 A. Bullying, harassment, intimidation.

6 Q. And you said those are pretty consistent. Is
7 that correct?

8 A. Yeah, each district has their -- probably has the
9 way they outline their policies. But in the
10 South Carolina Code of Laws, it clearly states
11 the things that you have to address in terms of
12 harassment, intimidation and bullying, and those
13 are -- and those things, no matter what district
14 you're in, from my experience, have been pretty
15 much the same.

16 Q. Okay. Do you -- just some follow-ups.

17 A. Uh-huh.

18 Q. Let me actually -- let's take about -- we've been
19 going for about an hour and a half. Let's take
20 about a quick five to ten-minute break and we'll
21 come back and ask a few follow-up questions. Get
22 my thoughts in order.

23 (Off the record from 11:38 a.m. until 11:49 a.m.)

24 BY MR. LYON:

25 Q. Dr. Harris, thank you for being patient with me

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1 A. Okay. Thank you.

2 EXAMINATION

3 BY MR. CALDWELL:

4 Q. Yes, may it please the court. I just have
5 several questions for you, Dr. Harris.

6 A. Okay.

7 Q. In reviewing the documents that I provided to
8 you, did you have an opinion as to the district's
9 policy with regard -- regarding writing on a
10 student by an instructor or a teacher in the
11 school?

12 A. Yes. Yes, that should never occur. I saw the --
13 I saw a picture of the student with the word
14 "loyalty" written on his arm. And in reading the
15 documents, it said that that was written by a
16 teacher. There is no -- there is no manner, no
17 instance at anytime where a teacher should
18 actually write on another student for any reason.
19 Actually writing on their physical person.

20 Q. Okay. And one follow-up. Have you formed an
21 opinion as to a student operating pursuant to
22 their IEP being questioned by law enforcement or
23 administration without contacting the student's
24 parent?

25 A. No. At anytime a student with an IEP or a

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1 student that's under the age of 17 is questioned
2 by law enforcement, that should -- their parents
3 should always be contacted before that
4 questioning occurs. Normally, if a student's
5 going to be questioned in any manner in regards
6 to an incident, that questioning should be done
7 by an administrator. Now, if there's an actual
8 incident that occurs and the student is 18 or
9 older, that's one. But the majority of time on a
10 school campus students under the age of 17 are
11 considered minors and so you -- my normal
12 procedure has been and it's always been expected
13 in all of the districts I've worked in is that
14 you contact the parent to let them know if law
15 enforcement -- law enforcement is going to
16 question a student. And it's also, at the
17 request of a parent, it's been expected to wait
18 for the parent to be present when that
19 questioning takes place.

20 Q. Is it your opinion that a school district has
21 additional responsibilities as it relates to IDEA
22 regarding questioning a student that's operating
23 pursuant to an IEP?

24 A. Yes. You have to -- you have to make sure that
25 you -- IEPs and students that fall under the IDEA

12/12/2023

STERLING B. HARRIS

1 laws, that you go above and beyond to make sure
2 that you address any student in that manner,
3 because those students may not have, depending on
4 what their IEP is, depending on what their
5 diagnosis is, it changes the respect in terms of
6 the expected behavior of those students. And so
7 whether a student is learning disabled and being
8 questioned or a student has an emotional
9 disability, those that are questioning those
10 students need to know and be aware of those;
11 otherwise, there can be certain triggers set off
12 by students -- by adults who are not aware of
13 their diagnosis in terms of how you question them
14 and what you do with them. It's that their --
15 inquiries with those students are different than
16 those with regular students.

17 Q. In reviewing the documents that were provided,
18 did you form an opinion regarding the questioning
19 that occurred of the -- of the student M.Y.S. by
20 law enforcement?

21 A. In reviewing the documents and looking at some of
22 the actions that occurred during that time, if
23 the parent was not there, I would have concern
24 that that is an issue, given the student's age
25 and the fact that he is a student with an IEP.

12/12/2023

STERLING B. HARRIS

1 Secondly, in looking at what occurred, seeing
2 that the disability has to do with some
3 behaviors, to the point that the student had a
4 shadow, means that, to me as a principal, there
5 had already been some predetermined fears or a
6 predetermined idea that the student could react
7 emotionally as having bad reactions with other
8 students or teachers. So that if the student is
9 being questioned in that manner and the parents
10 are not there, whoever the person doing the
11 questioning has to be directly aware of it.
12 Otherwise, in my opinion as a principal, I
13 wouldn't want an employee to be put in a position
14 where they're setting off those triggers without
15 full knowledge of the student's disability.

16 Q. I have no follow-up question.

17 REEXAMINATION

18 BY MR. LYON:

19 Q. I've got a few just follow-up.

20 A. Okay.

21 Q. I think your testimony was that a teacher should
22 not write on a student's arm. Is that correct?

23 A. My testimony is a student -- a teacher shouldn't
24 write on a student's person anywhere, arm, leg,
25 face.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF FLORENCE	)	TWELFTH JUDICIAL CIRCUIT
	)	
IN Re: Hannah J. Secka, individually and	)	CIVIL ACTION NO: 2021-CP-21-02121
as parent and guardian for the minor	)	
M.Y.S.,	)	
	)	
Plaintiffs,	)	HANNAH J. SECKA, INDIVIDUALLY AND
	)	AS PARENT AND GUARDIAN FOR MINOR
	)	M.Y.S 'S MOTION FOR
	)	RECONSIDERATION OF COURT'S
	)	ORDER GRANTING DEFENDANT
	)	FLORENCE COUNTY SCHOOL DISTRICT
	)	ONE'S MOTION FOR SUMMARY
	)	JUDGMENT
vs.	)	
	)	
	)	
FLORENCE COUNTY SCHOOL	)	
DISTRICT ONE and FLORENCE	)	
COUNTY SHERIFF'S DEPARTMENT,	)	
	)	
Defendants.	)	
	)	

COMES NOW Plaintiffs, Hannah Secka, individually and as parent and guardian for the minor, M.Y.S. (hereinafter, " Plaintiffs") by and through their undersigned attorney, pursuant to Rule 59 (e) and 60 (b) of the South Carolina Rules of Civil Procedure hereby moves this Court to reconsider its Order granting Defendant Florence Couty School District One's (hereinafter, the 'District') Motion for Summary Judgment on March 5, 2024. Based on the following, Plaintiffs, respectfully request that this Court reconsider its granting of the District's Motion for Summary Judgement DENIES the Motion.

INTRODUCTION

A motion to amend a judgment enables a party to seek correction of substantive judicial errors or mistakes within 10 days after entry of judgment. A party can ask the court to vacate or set aside the judgment in its entirety, or request alteration or correction of only some aspects of the

judgment. (see, for example, *United States v. Becker v. Westinghouse Savannah River Co.*, 305 F.3d 284, 290 (4th Cir. 2002)). When moving to amend a judgment, a party must: (1) State with particularity the grounds for altering or amending the judgment; (2) Specify the relief or order sought. FRCP 7(b)(1)(B), (C) and 59(e). The Supreme Court of South Carolina has recognized “two basic situations in which a party should consider filing a Rule 59(e)[,SCRCP,] motion.” *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). Under the rule, “[a] party may wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it.” *Id.*

ARGUMENT

A. The basis for Plaintiffs’ Motion for Reconsideration is that a genuine issue of material fact exists as to the “loss” suffered by Plaintiffs as defined by the South Carolina Tort Claims Act.

The South Carolina Torts Claim Act (hereinafter, “SCTCA”) defines a compensable “loss” as: bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in actions for negligence, but does not include the intentional infliction of emotional harm. S.C. Code § 15-78-60. The rule governing summary judgment provides that “supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matter stated therein.” *Rule 56(e), SCRCP*. (Nonetheless, “an expert witness may state an opinion based on facts not within his firsthand knowledge.... He may base his opinion on information, whether or not admissible, made available to him before the

hearing if the information is of the type reasonably relied upon in the field to make opinions." *Hundley v. Rite Aid of South Carolina, Inc.*, 339 S.C. 285, 529 S.E.2d 45, 50 (Ct. App. 2000) (citations omitted); *see also* Rule 703, *SCRE*.

Plaintiffs' claims are not solely for emotional harm. The photos of M.Y.S. indicate that he was physically harmed while under the care of the school district. M.Y.S. testified that on multiple occasions he was made uncomfortable when he was touched without his consent or permission by Kathy Luhrs, his 8th Grade math teacher at Sneed Middle School when she wrote on his arm with a Sharpie. Ex. 3, M.Y.S. Dep. P. 78. Ex. 1, PLT FCSDO 000011. Also, he was in danger and harmed when he was attacked by multiple students while inside the athletic locker room without supervision. Specifically, M.Y.S. testified that, "They Attack Me!" Ex. 1, PLT FCSDO 000009-000010; Ex. 3, M.Y.S Dep. p. 77, In. 2 -p. 88, In. 8. Ex. 4, Hannah J. Secka Dep. p. 112, In. 13-18. Students have the right to be recognized and respected, M.Y.S. was abused and neglected. Ex. 4, Hannah J. Secka Dep. p. 150, In. 1-p. 151, In.18. Furthermore, Plaintiffs brought forth an expert witness with personal knowledge of school procedures and policies. Plaintiffs' expert witness has first-hand knowledge working with regular students, student athletes, and students with mental disabilities, all of which applies to M.Y.S. Plaintiffs' expert witness indicated that it is his opinion based on his many instances seeing children after physical altercations that it appeared that M.Y.S.' face was swollen, which indicates that he suffered bodily injury. Ex. 3, M.Y.S Dep. p. 77, In. 2 -p. 88, In. 8. Ex. 1, PLT FCSDO 000005-000011. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 68, In. 3-p. 71, In. 15. He also indicated that had the school been following procedures that a reasonable educator in extra-curricular settings would have followed, M.Y.S. may not have suffered the loss he did. Ex. 2A, Dr. S. Harris, Ph. D, Expert Dep. p. 5, In. 11-p. 6, In. 12. Furthermore, Plaintiffs have suffered economic loss through the medical expenses for M.Y.S. from Seasons Psychology

Associates, LLC 314 South McQueen Street, Florence, South Carolina 29501 with a closing balance of \$11, 875.00. for both his physical and psychological damages as a result of counseling for the incidents that occurred at school. Ex. 1. PLT FCSDO 000038-000040.

B. The basis for Plaintiffs' Motion for Reconsideration that the District violated Policy AR JICFAA-R Harassment, Intimidation or Bullying issued 12/06 and Policy GBEB Staff Conduct issued 4/18 as defined by the SC Tort Claims Act.

Plaintiffs believe the court has failed to fully consider the expert testimony provided by Plaintiffs' expert witness. South Carolina courts have recognized that failure to fully consider an argument is grounds for a reconsideration upon specific grounds for relief and the relief requested. *Elam*, 361 S.C. at 24, 602 S.E.2d at 780. Plaintiffs argues that Dr. Harris' expert testimony was not given full consideration. For this reason, Dr. Harris has provided a clarifying affidavit, and Plaintiffs has provided additional discussion below regarding its content and their expert's opinion of the case.

In clarification of Dr. Harris' testimony, the violation of Florence School District One policy AR JICFAA-R, entitled Harassment, Intimidation or Bullying issued 12/ 2006 and Policy GBEB further discussed. Dr. Harris Aff. ¶ 1-9. AR JICFAA-R states in pertinent part, "an employee or volunteer who witnesses or has reliable information, that a student has been subject to harassment, intimidation, or bullying will report the incident to the principal or the designated school contact person." *Id.* The policy was violated by the District personnel failing to report the harassment, intimidation, or bullying to the designated school contact person, and by failing to promptly investigate the incident and appropriately resolve it consistent with District policies and regulations. Dr. Harris Aff. ¶ 6-9. Further, the District personal violated Policy GBEB Staff Conduct issued 4/18 in their actions with regard to employee, Kathy Luhrs, who wrote a misspelled

word “Loyalty” on Plaintiff’s arm without his permission or consent. Ex. 3, M.Y.S. Dep. P. 78. Ex. 1, PLT FCSDO 000011. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 68, In. 3-p. 71, In. 15. Dr. Harris Aff. ¶ 6-9. Dr. Harris’ testified in his deposition and affidavit that this conduct violated Policy GBEB Staff Conduct issued 4/18 which states “no district employee will engage in immoral or criminal conduct or commit or attempt to induce students or others to commit an act or acts of immoral or criminal conduct.” *Id.*

A reasonable person would consider writing on a child in permanent marker, *even with the parent’s permission*, to be immoral. There is no reason why a child should be written on by any adult in the building. Furthermore, the size, location, and color of the writing resembles a misspelled tattoo on Plaintiff’s arm. As a minor, M.Y.S. could not have legally been able to obtain a real tattoo and his mother did not consent to have anything resembling a tattoo on her child, so Kathy Luhrs actions were in violation of the district policy, in which the District failed to investigate. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 68, In. 3-p. 71, In. 15. Dr. Harris Aff. ¶ 6-9. Therefore, Plaintiff asks the Court to reconsider its motion for summary judgment after fully considering the expert testimony.

C. The basis for Plaintiff’s Motion for Reconsideration Plaintiffs have pled facts sufficient to establish damages for emotional distress because a reasonable jury could find the conduct of District employees to be “extremely reckless”.

South Carolina courts have recognized that an individual’s negligent conduct can be so gross as to amount to recklessness. *See Berberich v. Jack*, 392 S.C. 278, 287, 709 S.E.2d 607, 612 (2011); *Jeffers v. Hardeman*, 231 S.C. 578, 582, 99 S.E.2d 402, 404 (1957); *Grooms v. Marlboro Cty. Sch. Dist.*, 307 S.C. 310, 414 S.E.2d 802 (Ct. App. 1992). This is based on the principle that an individual’s conduct cannot be reckless where it was not at least grossly negligent. *See also* 18

S.C. Jur. Negligence § 9 (2012) (“Recklessness is a higher degree of negligence than gross negligence.”).

Recklessly indifferent conduct is the touchstone for recovery from emotional damages, where both the conduct and emotional injury are extreme. *Stephens v. United States, Civil Action No. 0:16-cv-149-BHH, 2017 U.S. Dist. (D.S.C. Jan. 19, 2017)*. To recover under an intentional infliction of emotional distress theory, a plaintiff must establish (1) the defendant intentionally or recklessly inflicted severe emotional distress or was certain, or substantially certain, that such distress would result from his conduct; (2) the conduct was so “extreme and outrageous” so as to exceed “all possible bounds of decency” and must be regarded as “atrocious, and utterly intolerable in a civilized community;” (3) the actions of the defendant caused plaintiff’s emotional distress, and (4) the emotional distress suffered by the plaintiff was “severe” such that “no reasonable man could expect to endure it.” *Argoe v. Three Rivers Behavioral Health, L.L.C.*, 392 S.C. 462, 475, 710 S.E.2d 67, 74 (2011) (quoting *Hansson v. Scalise Builders of S.C.*, 374 S.C. 352, 356, 650 S.E.2d 68, 70 (2007)). During the trial and in their complaint, the Basses asserted their intentional infliction of emotional distress claim was based on DSS’s reckless rather than intentional conduct. *Bass v. S.C. Dep’t of Soc. Servs.*, 403 S.C. 184, 742 S.E.2d 667 (Ct. App. 2013). The ultimate conclusion generally hinges on whether a school District “knew or should have known” of the need to exercise control over a given situation. *Moore v. Berkeley Cnty. Sch. Dist.*, 326 S.C. 584, 486 S.E.2d 9 (Ct. App. 1998). M.Y.S.’s mother informed an assistant coach for the football team that students were harassing M.Y.S. and that she was concerned for his physical safety and emotional well-being while participating on the football team. Ex. 1. PLT FCSDO 000011-000037 By failing to investigate the allegation, intervene with the players, or supervise M.Y.S. based on his knowledge of anticipated danger, the employee’s failure to act proximately caused M.Y.S. to

be both emotionally and physically harmed in the locker room with his teammates. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 61, In. 2-p. 64, In. 15 A reasonable football coach would have taken steps to protect his player from such harm, especially considering the vulnerable nature of M.Y.S. due to his mental condition. *Id.* The plaintiff has provided expert testimony from an educational consultant stating it is his opinion that there should have been action taken by this coach in this circumstance. *Id.* Based on how severe physical abuse in a football locker room could have become, the coach's conduct, and expert testimony stating what a reasonable educational employee should have done in that situation, a reasonable jury can find the conduct to be considered "extremely reckless". M.Y.S. has shown evidence of physical harm and it is reasonable for a child who already has emotional concerns to suffer extreme emotional harm from such conduct. Ex. 4 Hannah J. Secka Dep. p. 103, In. 8-p. 153, In. 5. Therefore, Plaintiffs have shown that a genuine issue of material fact exists as to whether the football coach's conduct was "extremely reckless".

CONCLUSION

Based on the foregoing, as well as the arguments set forth by Plaintiffs in their previously filed Memorandum in Opposition to District's Motion for Summary Judgement, and the arguments made by counsel for Plaintiffs at the hearing on this matter, all of which Plaintiffs incorporates herein by reference, Plaintiffs respectfully requests that the Court reconsider its March 5, 2024 Order and DENY the District's Motion for Summary Judgment.

By: s/ Darryl C. Caldwell, Esquire
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 Attorneys for Plaintiffs

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)
)
IN Re: Hannah J. Secka, individually and)
as parent and guardian for the minor)
M.Y.S.,)
)
Plaintiffs,)
)
vs.)
)
)
)
FLORENCE COUNTY SCHOOL)
DISTRICT ONE and FLORENCE)
COUNTY SHERIFF'S DEPARTMENT,)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS

TWELFTH JUDICIAL CIRCUIT

CIVIL ACTION NO: 2021-CP-21-02121

CERTIFICATE OF SERVICE

I, Darryl C. Caldwell, with the Caldwell Law Firm, LLC, the attorney representing Plaintiffs do hereby certify that on this 14th day of March 2024, I served the below-named Parties, PLAINTIFFS' MOTION FOR RECONSIDERATION via electronic mail to the below-listed addresses:

David N. Lyon, Esquire
Duff Freeman Lyon, LLC
PO Box 1486
Columbia, South Carolina 29202
dlyon@dfj-lawfirm.com

The Honorable Michael G. Nettles
Florence City-County Complex
181 North Irby Street, Suite 3610
Florence, South Carolina 29501
MNettlesSC@sccourts.org

/s/ Darryl C. Caldwell

AR JICFAA-R Harassment, Intimidation or Bullying

Issued 12/06

Any student who feels he/she has been subjected to harassment, intimidation or bullying is encouraged to report the incident to the principal, assistant principal, counselor or teacher. Any incident reported to a counselor or teacher will be referred to an administrator who will investigate the complaint and handle according to the student discipline code.

An employee or volunteer who witnesses or has reliable information that a student has been subject to harassment, intimidation or bullying will report the incident to the principal or the designated school contact person.

Reports may be anonymous; however, formal disciplinary action must not be taken solely on the basis of an anonymous report. The principal or his/her designee is responsible for seeing that an investigation is promptly conducted and the incident appropriately resolved consistent with other district policies and regulations that may apply.

Issued 12/06

Florence School District One

JICFAA-R

Policy GBEB Staff Conduct

Issued 4/18

Purpose: To establish the board's vision for appropriate staff conduct.

The board reaffirms one of the oldest beliefs in education: one of the best methods of instruction is that of setting a good example.

The board expects the staff of the district to strive to set the kind of example for students that will serve them well in their own conduct and behavior and subsequently contribute to an appropriate school atmosphere.

To that end, in dress, conduct, and interpersonal relationships, all staff should recognize that they are being continuously observed by students, other employees, parents/legal guardians, and community members, and that their actions and demeanor may impair their effectiveness as an employee.

The personal life of an employee, including the employee's personal use of a district or non-district issued electronic equipment outside of working hours (such as through social networking sites, email, text messaging, personal portrayal on the Internet, etc.), will be the concern of and warrant the attention of the board if it impairs the employee's ability to effectively perform his/her job responsibilities or as it violates local, state, or federal law or contractual agreements. Unprofessional conduct may be subject the employee to disciplinary actions consistent with state law, federal law, and/or board policy.

No employee will engage in immoral or criminal conduct or commit or attempt to induce students or others to commit an act or acts of immoral or criminal conduct. If it appears an employee may have violated the law, the district will cooperate with law enforcement agencies.

All employees will maintain a professional relationship with students at all times, both inside and outside of school. No employee may engage in inappropriate conduct of a sexual nature with a student at any time. This includes any action or conduct communicated or performed in person, in writing, or electronically through such means as a telephone, cell phone, computer, or other telecommunication device, including email, text messaging, social media, and social networking. Employees who have personal social networking sites are required to secure these sites to prevent students from having access to them. Employees are prohibited from posting any student information or student picture on the Internet unless it is posted directly on the district/school website, posted on district approved web and social media sites, and is in compliance with Florence School District One policies, including web publishing guidelines, district acceptable use policies (AUPs), and social media procedures.

Employees of the district, while on duty and in the presence of students, will not use profanity, will not use tobacco in any form, and will not consume or be under the influence of intoxicating beverages. Employees will not be involved in drug abuse or drug trafficking.

Violations of this policy by employees will be grounds for placing an employee on administrative leave, with pay, pending an investigation, and possible termination of employment consistent with district policy and state law.

Arrest of an Employee

The board delegates specific authority to the superintendent to take appropriate employment action with regard to an employee who has been arrested consistent with state law. Employees who are arrested must notify their supervisor immediately.

Adopted 10/12/00; Revised 11/19/09, 6/9/16, 10/13/16, 4/12/18

GBEB

Legal References:

S.C. Code, 1976 as amended:

Section 16-23-420, *et seq.* - Concealed weapons; school property exception.

Section 59-25-430 - Teacher dismissal; evident unfitness for teaching.

Florence School District One

GBEB

RECEIVED

Aug 18 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County
The Honorable Michael G. Nettles
12th Judicial Circuit Court Judge
Trial Court Case No.: 2021-CP-21-02121

Appellate Case No.: 2024-001454

Hannah Secka individually and as parent and guardian for the minor, M.Y.S., Appellants,

v.

Florence County School District One and Florence County Sheriff's Department, Respondents.

**RESPONDENT'S DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

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Meredith L. Seibert, Esq

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Attorneys for Respondent

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Appellant, *pro se*

Pursuant to Rule 209, SCACR, Respondent designates the following material for inclusion in the record on appeal:

ORDERS

1. Order dated March 5, 2024 (granting SJM)
2. Order dated September 4, 2024 (denying MFR).

PLEADINGS

3. Summons and Complaint filed September 9, 2021.
4. Answer of Florence County School District One filed December 3, 2021.
5. Stipulation of Dismissal (Florence County Sheriff's Department) filed January 3, 2024.

TRANSCRIPTS

6. Hearing Transcript of Motion for Summary Judgement taken on February 20, 2024.
7. Hearing Transcript of Motion for Reconsideration taken on August 21, 2024.
8. Deposition Transcript of Moudou-Yasen Nasir Secka, including exhibits taken on November 16, 2022.
9. Deposition Transcript of Hannah J. Secka, including exhibits taken on November 16, 2022.
10. Deposition Transcript of Daisy Johnson, including exhibits taken on October 17, 2023.
11. Deposition Transcript of Dr. Sterling Harris, including exhibits taken on December 12, 2023.

MOTIONS

12. Motion to Compel Discovery filed December 13, 2021.
13. Respondents' Motion and Memorandum in Support of Summary Judgment filed October 23, 2023, including corresponding exhibits.
14. Appellants' Memorandum of Law in Opposition to Respondent's Motion for Summary Judgment filed February 20, 2024, including corresponding exhibits.

15. Appellants' Motion for Reconsideration filed March 14, 2024.

16. Respondent's Response to Motion for Reconsideration filed March 20, 2024.

17. Appellants' Motion to Relieve Counsel (Caldwell) filed September 14, 2024.

18. Appellants' Notice of Appeal filed September 18, 2024.

Undersigned counsel certifies, pursuant to Rule 209(c), SCACR, that the designation contains no matter which is irrelevant to the appeal.

Respectfully Submitted:

DUFF | FREEMAN | SEIBERT, LLC

By: s/Meredith L. Seibert

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Attorneys for Respondent

August 18, 2025
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

IN Re: Hannah J. Secka, individually and as
parent and guardian for the minor, M.Y.S,

Plaintiffs,

v.

Florence County School District One and
Florence County Sheriff's Department,

Defendants.

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Civil Action No. 2021-CP-21-02121

[PROPOSED] CONSENT
SCHEDULING ORDER

This matter comes before the Court upon the request of the parties seeking a Scheduling Order, pursuant to Rule 16 of the South Carolina Rules of Civil Procedure. Given the consent of all parties, this Court orders as follows:

1. The parties shall complete all discovery on or before August 31, 2023. Discovery shall be deemed completed within this time only if discovery is initiated at such time as to afford the responding party the full time provided under the applicable rule of the South Carolina Rules of Civil Procedure in which to respond prior to the discovery completion date noted in this paragraph. (The parties may, with the consent of all counsel, conduct discovery up to the time of trial, provided the deadlines in this order are not affected.)

2. The parties shall engage in mediation on or before September 29, 2023.

3. The parties shall file and serve all dispositive motions on or before October 31, 2023.

4. This case will not be called for trial until at least thirty (30) days after the court decides all dispositive motions, and not prior to January 31, 2024.

This Order is entered with the express consent of the parties on this ____ day of May 2023, and supersedes any conflicting deadline or schedule provided by the rules governing civil actions in this Court.

AND IT IS SO ORDERED.

Chief Administrative Judge
Twelfth Judicial Circuit

Florence, South Carolina
May , 2023

WE CONSENT:

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Attorney for Plaintiffs

May 18, 2023
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Attorneys for Defendant Florence County
School District One

May 18, 2023
Columbia, South Carolina

and

WILLCOX, BUYCK & WILLIAMS, P.A.

By: s/J. Scott Kozacki

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Attorney for Defendant Florence County
Sheriff's Department

May 18, 2023
Florence, South Carolina

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Aug 18 2025

SC Court of Appeals

Appeal from Florence County
The Honorable Michael G. Nettles
12th Judicial Circuit Court Judge
Trial Court Case No.: 2021-CP-21-02121

Appellate Case No.: 2024-001454

Hannah Secka individually and as parent and guardian for the minor, M.Y.S., Appellants,

v.

Florence County School District One and Florence County Sheriff's Department, Respondents.

CERTIFICATE OF SERVICE

The undersigned of Duff Freeman Seibert, LLC, hereby certifies that s/he has caused the following party of record to be served with the foregoing, *Respondent's Designation of Matter to be Included in the Record of Appeal*, in the above-captioned matter, by electronic/e-mail, and by mailing a copy of same, postage prepaid and return address clearly indicated, on this 18th day of August 2025:

Hannah L. Secka
503 W. Darlington St. #B
Florence, SC 29501
hannsc2@aol.com

I further certify that all parties required by the Rule have been served.

By: s/Meredith L. Seibert
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Attorneys for Respondent

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)
IN THE COURT OF COMMON PLEAS
FOR THE TWELTH JUDICIAL CIRCUIT

IN RE: Hannah J. Secka, individually and)
as parent and guardian for the minor M.Y.S.,)
Plaintiff,)
vs.)
Florence County School District One and)
Florence County Sheriff's Department,)
Defendants.)
CASE NO: 2021-CP-21-02121
**Defendant Florence County Sheriff's
Department's First Set of Requests for
Production to Plaintiff**

TO PLAINTIFF AND HER LEGAL COUNSEL:

Defendant Florence County Sheriff's Department, by and through the undersigned legal counsel, does hereby request that you produce to his pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, the documents and/or other tangible items specified below. It is demanded that you make such production to the undersigned within thirty (30) days from the date of service of this request, to the law office of Willcox, Buyck & Williams, PA, P.O. Box 1909, 248 W. Evans St., Florence, South Carolina 29503.

INSTRUCTIONS

- A. All items to be produced are those in the possession of you, your attorney, investigators, agents, employees, or other representatives of the named party and their attorney.
- B. Where the terms "incident(s)" are used, they are meant to mean the incident(s) which is/are the basis of this lawsuit, unless otherwise specified.
- C. These Requests for Production are intended as continuing requests, requiring you to produce those responsive items as may be acquired by you, your agents, attorneys, or representatives following your initial response.
- D. Where the terms "Complaint" is used, it is meant to mean the Complaint and/or Amended Complaint(s) which forms the basis of the Plaintiff's claim(s) in this lawsuit.

DOCUMENTS TO BE PRODUCED

1. All documents, medical records, bills, photographs, plats, videos, compact discs, phone records, sketches, e-mails, text messages, diaries, other prepared documents, exhibits, or other tangible objects which you intend, desire, or assert you have the right to introduce or use at the trial of this case for any reason.
2. Any and all written, oral, or transcribed statements of any individual which relates in any manner to the allegations in the Complaint, whether such statements have been taken by the Plaintiff and/or any individual acting on behalf of the Plaintiff.
3. Any and all documents, medical records, bills, photographs, plats, videos, compact discs, phone records, sketches, e-mails, text messages, diaries, other prepared documents, exhibits, photographs, or other tangible objects which relate in any manner to the Plaintiff's Complaint.
4. Any and all reports, studies, analysis, notes, files, folders, e-mails, text messages, correspondence, or other documentation of any investigator, expert, consultant or independent contractor which relate in any manner to the Plaintiff's Complaint.
5. Any and all medical records, bills, receipts, charts, diagrams, reports, records or similar documents relating to treatment, physical, psychological or otherwise, of the Plaintiff as a result of the injuries alleged in the Complaint.
6. Any and all documents, medical records, bills, photographs, plats, videos, compact discs, phone records, sketches, e-mails, text messages, diaries, other prepared documents, exhibits, photographs, or other tangible objects identified in Plaintiff's responses to interrogatories.
7. Copies of all documents, medical records, bills, photographs, plats, videos, compact discs, phone records, sketches, e-mails, text messages, diaries, other prepared documents, exhibits, photographs, or other tangible objects acquired via subpoena, if any, in this case.
8. Copies of all documents, medical records, bills, photographs, plats, videos, compact discs, phone records, sketches, e-mails, text messages, diaries, other prepared documents, exhibits, photographs, or other tangible objects s relied, utilized, and/or reviewed in preparation of these discovery requests.
9. Copies of all documents, medical records, bills, photographs, plats, videos, compact discs, phone records, sketches, e-mails, text messages, diaries, other prepared documents, exhibits, photographs, or other tangible objects obtained via Freedom of Information Act or records requests related to this case.
10. Copies of all documents, medical records, bills, photographs, plats, videos, compact discs, phone records, sketches, e-mails, text messages, diaries, other prepared

documents, exhibits, photographs, or other tangible objects obtained from or submitted to any other party in this case.

11. Copies of all educational records of Plaintiff.

WILLCOX, BUYCK & WILLIAMS, P.A.

By: J. Scott Kozacki
J. Scott Kozacki
SC Bar No: 64137
PO Box 1909
Florence, SC 29503-1909
(843) 662-3258 - Tel
skozacki@willcoxlaw.com
ATTORNEY FOR THIS DEFENDANT

October 22, 2021
Florence, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
FOR THE TWELTH JUDICIAL CIRCUIT

IN RE: Hannah J. Secka, individually and)
as parent and guardian for the minor M.Y.S.,)

CASE NO: 2021-CP-21-02121

Plaintiff,

VS.

Florence County School District One and
Florence County Sheriff's Department,

Defendants.

I, the undersigned, of the law office of Willcox, Buyck & Williams, as attorneys for Defendant Florence County Sheriff's Department do hereby certify that I have served Defendant Florence County Sheriff's Department's First Set of Requests for Production to Plaintiff this October 22, 2021, by depositing the same in the United States Mail in an envelope, sufficient postage prepaid, to the Plaintiff, properly addressed as follows:

Darryl C. Caldwell
Caldwell Law Firm
140 Wildewood Park Drive
Palmetto Suite 103
Columbia, SC 29223



Melisa Hargrove
Paralegal to J. Scott Kozacki

October 22, 2021

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
FOR THE TWELTH JUDICIAL CIRCUIT

IN RE: Hannah J. Secka, individually and)
as parent and guardian for the minor M.Y.S.,)
)
Plaintiff,)
)
vs.)
)
Florence County School District One and)
Florence County Sheriff's Department,)
)
Defendants.)
)

CASE NO: 2021-CP-21-02121

**Defendant Florence County Sheriff's
Department's Motion to Compel
Discovery**

PLEASE TAKE NOTICE THAT Defendant Florence County Sheriff's Department ("this Defendant") by and through the undersigned, respectfully moves this Honorable Court, pursuant to Rule 37(a)(2) of the South Carolina Rules of Civil Procedure, for an order compelling the Plaintiff to answer this Defendant's First Set of Interrogatories and Requests for Production of Documents, attached hereto.

The Plaintiff was served with the Initial Interrogatories and Requests for Production of Documents on or about October 22, 2021. The Interrogatories and Requests for Production of Documents are permitted by Rules 33 and 34 of the South Carolina Rules of Civil Procedure, respectively, are not objectionable, and are calculated to lead to the discovery of admissible evidence. This Defendant's counsel contacted Plaintiff's counsel requesting a status of the discovery responses. However, no responses have been received as of this date from the Plaintiff.

WHEREFORE, this Defendant respectfully urges that this Honorable Court grant this motion to compel Defendant Florence County Sheriff's Department's First Set of Interrogatories and Requests for Production of Documents and award reasonable attorney's fees and costs in the preparation of the instant motion.

THE UNDERSIGNED HEREBY CERTIFIES, PURSUANT TO RULE 11(a) OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE, THAT PRIOR TO FILING THIS MOTION HE COMMUNICATED WITH OPPOSING COUNSEL IN A GOOD FAITH ATTEMPT TO RESOLVE THE MATTER CONTAINED IN THIS MOTION.

WILLCOX, BUYCK & WILLIAMS, P.A.

By: s/ J. Scott Kozacki
J. Scott Kozacki
S.C. Bar No. 64137
PO Box 1909
Florence, SC 29503-1909
(843) 662-3258 Telephone
(843) 662-1342 Fax
Email: skozacki@WillcoxLaw.com
ATTORNEY FOR DEFENDANT FLORENCE
COUNTY SHERIFF'S DEPARTMENT

December 13, 2021
Florence, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE TWELTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	

Hannah J. Secka, individually and	)	CASE NO: 2021-CP-21-02121
as parent and guardian for the minor M.Y.S.,	)	
	)	
Plaintiff,	)	
vs.	)	Defendant's Motion for Summary
	)	Judgment
Florence County School District One and	)	
Florence County Sheriff's Department,	)	
	)	
Defendants.	)	
_____	)	

TO THE PLAINTIFF(S) AND THEIR LEGAL COUNSEL:

YOU WILL PLEASE TAKE NOTICE that the undersigned attorney for the Florence County Sheriff's Department ("FCSD") will move before the South Carolina Court of Common Pleas for the Twelfth Judicial District of South Carolina for an order, pursuant to S. C. R. Civ. P. 56, granting the FCSD summary judgment in its favor and dismissing all claims against it, with prejudice. In particular, the FCSD asserts that there are no genuine issues of material fact for trial and that it is entitled to summary judgment in its favor as a matter of law. Additionally, the undersigned does hereby also submit the attached memorandum and exhibits in further support thereof.

WILLCOX, BUYCK, & WILLIAMS, P.A.

By: s/ J. Scott Kozacki
 J. Scott Kozacki
 SC Bar No: 64137
 PO Box 1909
 Florence, SC 29503-1909
 (843) 662-3258 - Tel.
 skozacki@willcoxlaw.com
 ATTORNEY FOR THE FCSD

October 23, 2023
 Florence, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE TWELTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	
Hannah J. Secka, individually and	)	CASE NO: 2021-CP-21-02121
as parent and guardian for the minor M.Y.S.,)	)	
	)	
Plaintiff,	)	
vs.	)	Defendant FCSD's Memorandum in
	)	Support of Summary Judgment
Florence County School District One and	)	
Florence County Sheriff's Department,	)	
	)	
Defendants.	)	
_____	)	

Introduction

Defendant Florence County Sheriff's Department ("FCSD"), by and through the undersigned legal counsel, does hereby file the instant memorandum in support of its contemporaneously filed motion for summary judgment. In particular, the FCSD asserts that summary judgment in its favor should be granted, because there are no genuine issues of material fact for trial. FCSD also asserts that it is entitled to judgment in its favor as a matter of law.

Relevant Factual Background

Plaintiff M.Y.S. ("M.Y.S.") was a prior student within Defendant Florence School District One ("School District"). Prior to the encounter at issue in this suit, M.Y.S. had amassed numerous disciplinary citations and reprimands (Ex. 2 – Discipline Records). For example, at Sneed Middle School, M.Y.S. was suspended for: taking another student's property then refusing to return it on September 8, 2017; hitting a teacher who took his phone on September 27, 2017; "pants-ing"¹

¹ "Pants-ing" is the act of pulling down a person's trousers and sometimes underpants, usually against their wishes, and typically as a practical joke or a form of bullying, but in other instances as a sexual fetish. <https://en.wikipedia.org/wiki/Pantsing>

another student on September 28, 2017; cursing at a teacher on October 19, 2017; punching another student in the face on December 13, 2017; fighting on February 6, 2018; pushing another student on February 21, 2018; and cursing at another teacher on March 13, 2018. (Ex. 2 – Discipline Records). Upon arriving at West Florence High School, M.Y.S. was also disciplined for cheating on September 7, 2018, and for refusing to put his phone away when asked on October 7, 2019. (Ex. 2 – Discipline Records).

Notably, M.Y.S. was also suspended from school for fighting on October 14, 2019. (Ex. 2 – Discipline Records). In regards thereto, that fight was recorded by other students. Some students showed administration the video of M.Y.S. fighting. (Ex. 1 – M.Y.S. Depo – p. 22-23). After seeing the video of students fighting on campus during school hours, school administration summoned M.Y.S. and the other student to the School Resource Officer (“SRO”) and Florence County Sheriff Deputy Jeblonski Green’s (“Deputy Green”) office (Ex. 1 – M.Y.S. Depo – p. 22-23). Deputy Green inquired as to the circumstances of the fight. Deputy Green first asked M.Y.S. about the fight and M.Y.S. denied being present. (Ex. 1 – M.Y.S. Depo – pp.70-71, 73-74). Officer Green then showed M.Y.S. the video and asked him if he was the one on video (Ex. 1 – M.Y.S. Depo. p. 74). M.Y.S. admitted that it was him on the video. (Ex. 1 – M.Y.S. Depo. p. 74). At some point during the questioning, Officer Green allegedly stood over M.Y.S. and asked if he wanted “a ride to Effingham.” (Ex. 1 – M.Y.S. Depo – p. 24-25). Deputy Green admittedly never “hit” M.Y.S., used any type of obscene language, bullied him, assaulted him, touched him in any harmful or offensive manner, threatened to hit him, and/or arrested him (Ex. 1 – M.Y.S. Depo. pp. 31-32, 38, 59-60). M.Y.S. simply did not like the manner in which he was “questioned” by Deputy Green (Ex. 1 – M.Y.S. Depo. pp. 36-37).

Thereafter, M.Y.S. returned to his regular schooling (Ex. 1 – M.Y.S. Depo – p. 24-25).

M.Y.S. was also never criminally charged for the fight. (Ex. 1 – M.Y.S. Depo p. 32-34). M.Y.S. similarly never had any formal court proceedings regarding his fight (Ex. 1 – M.Y.S. Depo p. 32-34). According to M.Y.S., he never had another encounter with Deputy Green. (Ex. 1 – M.Y.S. Depo p. 45).

According to Plaintiff Hannah J. Secka (“Ms. Secka”), she is the parent and Guardian of M.Y.S. However, she admittedly did not personally witness any incident involving Deputy Green, which are alleged to be unlawful and/or at issue in this lawsuit (Ex. 3 – Secka Depo. pp. 17, 22). Similarly, Ms. Secka admits that M.Y.S. was never transported to the local detention center and/or formally charged for the fight at issue (Ex. 3 – Secka Depo. pp. 21-22). Ms. Secka was also admittedly unaware of what training Deputy Green had received, who he received that training from, and/or what factors were considered by the FCSD prior to Deputy Green’s hiring (Ex. 3 – Secka Depo. pp. 53-54). Ms. Secka also admittedly never reviewed Deputy Green’s personnel file and/or what was contained therein (Ex. 3 – Secka Depo. pp. 59-60). Ms. Secka also did not recall any specific dates in which M.Y.S. was ever intimidated or harassed by anyone at the FCSD (Ex. 3 – Secka Depo. p. 68). Ms. Secka admits that she believed the alleged actions of Deputy Green were illegal, criminal in nature, and should have been criminally prosecuted (Ex. 3 – Secka Depo. pp. 80-81, 89). Ms. Secka also admits to never having reviewed any memorandum of understanding between the FCSD and the School District, nor its contents (Ex. 3 – Secka Depo. pp. 81-82).

According to Plaintiff M.Y.S. (“M.Y.S.”),² Jeblonski Green questioned him following the fight (Ex. 1 – M.Y.S. Depo. pp. 24-25). Deputy Green was allegedly “like threatening” and saying

² At the time of commencement of this legal action, M.Y.S. was allegedly a minor child. However, M.Y.S. is now over the age of eighteen (18) years (Ex. 1 – M.Y.S. Depo. p. 6). However, M.Y.S.’s name remains abbreviated herein.

he could “go for a ride to Effingham” (Ex. 1 – M.Y.S. Depo. pp. 24-25). M.Y.S. was asked a “slick” question and he provided a “slick” remark (Ex. 1 – M.Y.S. Depo. pp. 24-25). M.Y.S. felt disrespected (Ex. 1 – M.Y.S. Depo. pp. 28-29). However, Deputy Green admittedly never “hit” M.Y.S., used any type of obscene language, bullied him, assaulted him, touched him in any harmful or offensive manner, threatened to hit him, and/or arrested him (Ex. 1 – M.Y.S. Depo. pp. 31-32, 38, 59-60). M.Y.S. simply did not like the manner in which he was “questioned” by Deputy Green (Ex. 1 – M.Y.S. Depo. pp. 36-37). In particular, M.Y.S. felt that his “unwanted comments were unnecessary (Ex. 1 – M.Y.S. Depo. p.41). Deputy Green admittedly did not do anything else “wrong” and his “manner” of questioning is the sole basis for M.Y.S.’ claims against the FCSD (Ex. 1 – M.Y.S. Depo. pp. 36-37). M.Y.S.’s only discussions with Deputy Green were immediately following the school fight (Ex. 1 – M.Y.S. Depo. p. 45). By his own admission, M.Y.S. did not know what the FCSD had done “wrong” to him (Ex. 1 – M.Y.S. Depo. p. 49). M.Y.S. also admittedly did not know the type of training Deputy Green had received and/or the contents of his personnel file (Ex. 1 – M.Y.S. Depo. pp. 50-51). Deputy Green did not allegedly wrong or harm M.Y.S. in any other manner whatsoever (Ex. 1 – M.Y.S. Depo. p. 52).

According to Deputy Green, he was employed by the FCSD as a Deputy Sheriff and assigned to serve as the School Resource Officer at West Florence High School from in or about 2013 until 2020 (Ex. 4 – Green Aff. ¶ 2). Deputy Green was assigned the position of School Resource Officer (“SRO”) by the FCSD, pursuant to a Memorandum of Agreement between the Defendants (Ex. 4 – Green Aff. ¶ 4; Ex. 5 – Memo of Agreement; Ex. 6 – O’Malley Depo. pp. 48-52). That memorandum of understanding detailed the rights and responsibilities of the Defendants relative to school resource officers (Ex. 4 – Green Aff. ¶ 5; Ex. 5 – Memo of Agreement; Ex. 6 – O’Malley Depo. pp. 48-52). Deputy Green’s job as a SRO was to enforce the law, not the policies,

procedures, rules or regulations of the school district (Ex. 4 – Green Aff. ¶ 6; Ex. 7 – Green Depo. p. 25). Deputy Green also vehemently denies having to be physically restrained from ever “attacking” M.Y.S., although he may have questioned M.Y.S. relative to the fight (Ex. 4 – Green Aff. ¶s 7, 8; Ex. 7 – Green Depo. pp. 29, 31-32, 39-40). At all times, Deputy Green was adequately and properly trained as a SRO, and had received both the necessary training and certification in which to do so (Ex. 4 – Green Aff. ¶ 10; Ex. 7 – Green Depo. pp. 25, 35).

Defendant Florence School District One Superintendent Dr. Richard O’Malley (“Dr. O’Malley”) testified that he would have no reason to believe that Deputy Green was ever an employee of the school district (Ex. 6 – O’Malley Dep. p. 48). Likewise, at all relevant times hereto, there was a Memorandum of Agreement between the Defendants (Ex. 4 – Green Aff. ¶ 4; Memo of Agreement; Ex. 6 – O’Malley Depo. p. 48-52). That memorandum of agreement detailed the rights and responsibilities of the Defendants relative to school resource officers (Ex. 4 – Green Aff. ¶ 5; Ex. 5 – Memo of Agreement; Ex. 6 – O’Malley Depo. pp. 48-52). It was also Dr. O’Malley’s belief that SRO’s would always remain employees of the FCSD and not that of the school district (Ex. 6 – O’Malley Dep. p. 51).

According to M.Y.S.’s Student Shadow³ Daisy Johnson (“Ms. Johnson”), she too did not ever personally witness M.Y.S. ever report any alleged instances of bullying to any teachers or school district administration (Ex. 8 – April 10-11, 2019 Due Process Hearing p. 46). Ms. Johnson also never reported any concerns that M.Y.S. was ever being harassed or bullied (Ex. 8 – April 10-11, 2019 Due Process Hearing p. 49). Ms. Johnson undeniably did not ever witness any school

³ A “Shadow” is an individual who helps children with disabilities like autism spectrum disorder (ASD), Specific Learning Disability, ADHD, behavioral issues, etc. on a one-to-one basis. They provide assistance to children with disabilities during mainstream schooling. <https://teachertrainingmumbai.com/blog/shadow-teacher-qualifications/#sen-details>

official physically assault M.Y.S., as alleged (Ex. 8 – April 10-11, 2019 Due Process Hearing p. 55).

On September 29, 2021, Plaintiffs filed suit against the Sheriff's Department and Florence School District One (Complaint). As alleged, Plaintiffs claimed that Defendants FCSD and the School District were grossly negligent in multiple particulars (Complaint). Defendants deny all such allegations. The FCSD has now filed a motion for summary judgment on the Plaintiffs' claims. The instant memorandum is submitted in support thereof.

Applicable Legal Standard

Under Rule 56, SCRCP, a party is entitled to a judgment as a matter of law if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact. "Summary judgment is appropriate when it is clear there is no genuine issue of material fact and the conclusions and inferences to be drawn from the facts are undisputed." McClanahan v. Richland County Council, 350 S.C. 433, 437, 567 S.E.2d 240, 242 (2002). A party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. Baughman v. American Tel. and Tel. Co., 306 S.C. 101, 410 S.E.2d 537 (1991). With respect to an issue upon which the nonmoving party has the burden of proof, this initial responsibility may be discharged by pointing out to the trial court that there is an absence of evidence to support the nonmoving party's case. *Id.* (citing Celotex Corp. v. Catrett, 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986)). Once the moving party carries its initial burden, the opposing party must, under Rule 56(e), do more than simply show that there is some metaphysical doubt as to the material facts but must come forward with specific facts showing that there is a genuine issue for trial. *Id.* (quoting Matsushita Elec. Indus.

Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87, 106 S. Ct. 1348, 1356, 89 L. Ed. 2d 538 (1986)) (emphasis in original). The party opposing summary judgment cannot simply rest on mere allegations or denials contained in the pleadings. Id.; George v. Empire Fire & Marine Ins. Co., 344 S.C. 582, 545 S.E.2d 500 (2001).

In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the nonmoving party. Vermeer Carolina's, Inc. v. Wood/Chuck Chipper Corp., 336 S.C. 53, 518 S.E.2d 301 (Ct. App. 1999). If triable issues exist, those issues should be submitted to the jury. Young v. S.C. Dept. of Corrections, 333 S.C. 714, 718, 511 S.E.2d 413, 415 (Ct. App. 1999). However, when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. Pye v. Aycock, 325 S.C. 426, 480 S.E.2d 455 (Ct. App. 1997).

Analysis

- I. *Plaintiffs have Failed to Effect Proper Service of the Summons and Complaint Upon the FCSD.*

Initially, the instant case should be dismissed, because the Plaintiff has failed to effect proper service of the Summons and Complaint upon the FCSD. No genuine issue of material fact exists in this regard. For this reason, FCSD's motion for summary judgment should be granted.

Notably, Rule 12(b), SCRCF, provides, in pertinent part:

Every defense . . . to a cause of action in any pleading . . . shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: . . . (5) insufficiency of service of process. . . A motion making any of these defenses shall be made before pleading if a further pleading is permitted.

Rule 12(b), SCRCF.

Rule 12(h)(1), SCRCF, also provides that the defense of insufficiency of service of process is waived “if it is neither made by motion under this rule nor included in a responsive pleading or an amendment thereof permitted by Rule 15(a) to be made as a matter of course.” Rule 12(h)(1) SCRCF (emphasis added).

In this case, the FCSD clearly raised the defense of failure to effect proper service process in its Answer (Answer ¶ 5). Specifically, FCSD clearly and timely alleged in their Answer that:

5. The Plaintiff failed to effect proper service of process upon the Defendant. This action is therefore subject to dismissal pursuant to Rule 12(b)(5), S.C.R.C.P. as to the Defendant. As well, the Plaintiff’s failure to effect proper service of process deprives this Honorable Court of personal jurisdiction over the Defendant.

(Answer ¶ 5).

No genuine issue of material fact exists in this regard.

Rule 4(d)(5) of the South Carolina Rules of Civil Procedure further governs the service of process upon a state officer or a state agency, such as the Florence County Sheriff’s Department.

Rule 4(d)(5), SCRCF. Rule 4(d)(5), SCRCF, in mandatory language, provides that:

Service shall be made ... [u]pon an officer or agency of the State by delivering a copy of the summons and complaint to such officer or agency and by sending a copy of the summons and complaint by registered or certified mail to the Attorney General at Columbia. If the agency is a corporation the copy shall be delivered as provided in paragraph (3) of this subdivision of this rule.

Rule 4(d)(5), SCRCF.

Therefore, the plain language of this rule demonstrates that service on a state officer or agency is not effected until the officer or agency being sued is personally served (emphasis added). Rule 4(d)(5), SCRCF; Maybin v. Northside Correctional Center, 891 F.2d 72, 73-4 (4th Cir. 1989) (acknowledging that, as a state agency, service on the FCSD must be made pursuant to Rule 4(d)(5) of the South Carolina Rules of Civil Procedure). Accordingly, service pursuant Rule 4(d)(5),

SCRCP is not legally obtained on the FCSD until it is made upon a person of suitable position and discretion within the agency. *Id.* (holding that service upon a correctional center employee was not effective for serving the FCSD) (citing *Jensen v. Doe*, 292 S.C. 592, 358 S.E.2d 148 (S.C. Ct. App. 1987), *cert. denied*, 295 S.C. 69, 367 S.E.2d 162 (1988)). Significantly, the rules undeniably do not provide for service by certified mail upon a state agency (emphasis added). *See* S.C.R. Civ. P. 4(d)(8) (service by certified mail is only allowed upon individuals and corporations). No genuine issue of material fact exists in this regard. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is appropriate.

In this case, no Certificate of Service or Affidavit of Service has been filed. As such, it is entirely unclear from the record how/when service was attempted. No genuine issue of material fact exists in this regard. For this reason, the FCSD's motion for summary judgment should be granted.

II. FCSD Exempt From Liability Under The South Carolina Tort Claims Act.

Next, the FCSD is exempt from liability under the South Carolina Tort Claims Act ("SCTCA"). No genuine issue of material fact exists in this regard. For this reason, the FCSD's motion for summary judgment should also be granted.

A. The SCTA Protects Defendants from Liability Under § 15-78-60(25).

The South Carolina Tort Claims Act bars specifically provides a government entity is:

Not liable for a loss resulting from responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student, patient, prisoner, inmate, or client of any governmental entity, except when the responsibility or duty is exercised in a grossly negligent manner.

S.C. Code Ann. § 15-78-60(25).

In the instant case, Defendants followed their duties and responsibilities without any evidence of negligence – much less gross negligence. No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment should be granted.

In fact, Jeblonski Green questioned M.Y.S. following the fight (Ex. 1 – M.Y.S. Depo. pp. 24-25). Deputy Green was allegedly “like threatening” and saying he could “go for a ride to Effingham” (Ex. 1 – M.Y.S. Depo. pp. 24-25). M.Y.S. was asked a “slick” question and he provided a “slick” remark (Ex. 1 – M.Y.S. Depo. pp. 24-25). M.Y.S. felt disrespected (Ex. 1 – M.Y.S. Depo. pp. 28-29). However, Deputy Green admittedly never “hit” M.Y.S., used any type of obscene language, bullied him, assaulted him, touched him in any harmful or offensive manner, threatened to hit him, and/or arrested him (Ex. 1 – M.Y.S. Depo. pp. 31-32, 38, 59-60). M.Y.S. simply did not like the manner in which he was “questioned” by Deputy Green (Ex. 1 – M.Y.S. Depo. pp. 36-37).

In particular, M.Y.S. felt that Deputy Green’s “unwanted comments were unnecessary (M.Y.S. Depo. p.41). Deputy Green admittedly did not do anything else “wrong” and his “manner” of questioning is the sole basis for M.Y.S.’ claims against the FCSD (Ex. 1 – M.Y.S. Depo. pp. 36-37). M.Y.S.’s only discussions with Deputy Green were immediately following the school fight (Ex. 1 – M.Y.S. Depo. p. 45). By his own admission, M.Y.S. did not know what the FCSD had done “wrong” to him (Ex. 1 – M.Y.S. Depo. p. 49). M.Y.S. also admittedly did not know the type of training Deputy Green had received and/or the contents of his personnel file Ex. 1 – (M.Y.S. Depo. pp. 50-51). Deputy Green did not allegedly wrong or harm M.Y.S. in any other manner whatsoever (Ex. 1 – M.Y.S. Depo. p. 52).

Under the South Carolina Tort Claims Act, “a governmental entity [is] liable for their torts in the same manner and to the same extent as a private individual under like circumstances, subject

to limitations upon liability and damages.” S.C. Code Ann. § 15-78-40. These limitations of liability “must be liberally construed in favor of limiting the liability of the State.” S.C. Ann. § 15-78-20. A limitation relevant to this case is § 15-78-60(25) (stated above).

Here, FCSD and Deputy Green were reasonably following their duties of assisting in “investigation of violations of criminal laws occurring in the school or on school property” per FCSD’s agreement with Florence School District One. (Ex. 4 – Green Aff. ¶ 9; Ex. 5 – Memo of Agreement). Officer Green’s sole interaction with M.Y.S. was the questioning regarding Plaintiff’s fighting during schooltime. (Ex. 4 – Green Aff. ¶ 8; Ex. 1 – M.Y.S. Depo p.45). When questioning M.Y.S., Officer Green did not touch M.Y.S., nor did he make any threats to harm M.Y.S. (Ex. 1 – M.Y.S. Depo p. 30-32). Officer Green merely stood up during the questioning while M.Y.S. remained seated, and asked him if he would like “a ride to Effingham”. (Ex. 1 – M.Y.S. Depo p. 24-25, p. 60 ¶ 6-7). All the above actions were clearly reasonable given the circumstances at West Florence High School on October 14, 2019. Undeniably, no evidence of gross negligence exists, nor has any been proven. No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment should be granted.

B. Defendants are Immune Under S.C. Code Ann. § 15-78-60(4).

FCSD is also exempt from liability under S.C. Code Ann. § 15-78-60(4). No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment should also be granted.

Indeed, the Tort Claims Act provides a governmental entity is not liable for a loss resulting from “adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution,

rule, regulation, or written policies.” S.C. Code Ann. § 15-78-60(4).

Here, Plaintiffs presumably allege that the FCSD somehow failed to comply with the Safe Schools Act and follow Florence County School District’s code of conduct. (Complaint ¶ 23). These allegations are legally insufficient under S.C. Code Ann. § 15-78-60(4), since a governmental entity cannot be held liable for failure to enforce laws or written policies. No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment should be granted.

C. FCSD is not Liable for the Criminal Actions of Third Persons Under § 15-78-60(20).

The FCSD also cannot be held liable for the criminal actions of third persons. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

S.C. Code §15-78-60(20) clearly provides that a governmental entity, such as the FCSD, is not liable for a loss resulting from the act or omission of a person other than an employee including but not limited to the criminal acts of third persons. Despite such, Plaintiff alleges that FCSD is liable because of the criminal actions of third parties. Specifically, Plaintiff alleges M.Y.S. was assaulted by his fellow students during his time on the school football team and while at West Florence. (Complaint ¶ 24, Ex. 1 – M.Y.S. Depo. p. 89-92). No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment should be granted.

D. FCSD is not liable for conduct outside of the scope of its agent outside the scope of his official duties under § 15-78-60(17).

The FCSD is also not liable for conduct outside of the scope of its agent outside the scope of his official duties under § 15-78-60(17). No genuine issue of material fact exists in this regard. For this reason, the FCSD's motion for summary judgment should also be granted.

Here, Ms. Secka admits that she believed the alleged actions of Deputy Green were illegal, criminal in nature, and should have been criminally prosecuted (Ex. 3 – Secka Depo. pp. 80-81, 89). No genuine issue of material fact exists in this regard.

Therefore, as claimed, Deputy Green's alleged actions were outside the scope of his official duties. Accordingly, S.C. Code Ann. § 15-78-60(17) undeniably provides that the FCSD cannot be found liable for "employee conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude." S.C. Code Ann. § 15-78-60(17). No genuine issue of material fact exists in this regard. For this reason, the FCSD's motion for summary judgment should also be granted.

E. No Gross Negligence.

Again, there are no facts which would support a finding of gross negligence. No genuine issue of material fact exists in this regard. For this reason, the FCSD's motion for summary judgment should also be granted.

Gross negligence is defined as "the failure to exercise slight care." Steinke v. South Carolina Dep't of Labor, Licensing and Regulation, 336 S.C. 373, 395, 520 S.E.2d 142, 153 (1999). It has also been defined as "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." Id. Gross negligence "is a relative term, and means the absence of care that is necessary under the

circumstances.” Id.

In the case at hand, there is nothing rising to the level of gross negligence. Again, gross negligence is “failure to exercise slight care.” Steinke, 336 S.C. at 395. Clearly, Officer Green exhibited more than slight care by conducting his investigation in the presence of other staff and faculty, neither threatening nor inflicting harm to M.Y.S., and by limiting his contact with M.Y.S. only to the incident in question. (Ex. 1 – M.Y.S. Depo p.45). Deputy Green admittedly did not do anything else “wrong” and his “manner” of questioning is the sole basis for M.Y.S.’ claims against the FCSD (Ex. 1 – M.Y.S. Depo. pp. 36-37).

As well, FCSD had no reason to doubt its employment of Officer Green given this incident. In fact, both Ms. Secka and M.Y.S. were admittedly unaware of what training Deputy Green had received, who he received that training from, and/or what factors were considered by the FCSD prior to Deputy Green’s hiring (Ex. 3 – Secka Depo. pp. 53-54; Ex. 1 – M.Y.S. Depo. pp. 50-51). Ms. Secka has also admittedly never reviewed Deputy Green’s personnel file and/or what was contained therein (Ex. 3 – Secka Depo. pp. 59-60). To the contrary, Deputy Green was undeniably adequately and properly trained as a SRO, and had received both the necessary training and certification in which to do so (Ex. 4 – Green Aff. ¶ 10; Ex. 7 – Green Depo. pp. 25, 35). Therefore, FCSD’s hiring and/or retention of Officer Green undeniably cannot subject FCSD to any claim of gross negligence. No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment should also be granted.

F. The Statute of Limitations Bars Plaintiffs Claims.

The applicable statute of limitations also bars the Plaintiffs’ claims. No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment

should also be granted.

Section 15-78-110 of the Act provides a two-year statute of limitations for most actions; a three-year statute of limitations is available to a party who files a “verified claim.” S.C. Code Ann. § 15-78-80; Joubert v. South Carolina Dep’t of Soc. Servs., 341 S.C. 176, 534 S.E.2d 1 (S.C. Ct. App. 2000) (if Plaintiff files statutorily - defined claim within one year of loss or injury, statute of limitations is extended to three years). As the record contains no evidence that Plaintiff filed a verified claim, the general two-year statute of limitations is applicable.

Here, Plaintiffs’ Complaint was filed on September 29, 2021. (Complaint). Thus, any claims arising before September 29, 2019, are undeniably time-barred by Section 15-78-110. S.C. Code Ann. § 15-78-110. No genuine issue of material fact exists in this regard.

In fact, FCSD’s actual hiring of Officer Green would clearly fall outside the statute of limitations and the Plaintiffs would be barred from suing over this complaint. (Complaint ¶ 1, 23). Similarly, any alleged incidents on the football team which occurred in M.Y.S.’s Freshman year at West Florence also undeniably occurred more than two years before the Complaint was filed as well. (Ex. 1 – M.Y.S. Depo. p. 88-89; Complaint). No genuine issue of material fact exists in this regard.

In sum, any and all claims originating before September 29, 2019, should be dismissed as time-barred. S.C. Code Ann. § 15-78-110. No genuine issue of material fact exists in this regard. For this reason, the Defendant’s motion for summary judgment should also be granted.

G. FCSD is not liable for any alleged intentional infliction of emotional harm.

The FCSD also cannot be held liable for any alleged intentional infliction of emotional harm. No genuine issue of material fact exists in this regard. For this reason, FCSD’s motion for summary

judgment should also be granted.

Here, the South Carolina Tort Claims act expressly bars any claim for intentional infliction of emotional distress, since it is excluded from the definition of a “loss” under the Act. S.C. Code Ann. § 15-78-30(f). Specifically, S.C. Code Ann. § 15-78-30(f) expressly provides that a compensable loss under the SCTCA “does not include the intentional infliction of emotional harm.” S.C. Code Ann. § 15-78-30(f) (emphasis added); see also, Trask v. Beaufort County, 392 S.C. 560, 573, 709 S.E.2d 536, 542 (Ct. App. 2011) (“Under the Tort Claims Act, a [governmental entity] is immune from suit for the ‘intentional infliction of emotional harm’”); Ward v. City of N. Myrtle Beach, 457 F. Supp. 2d 625, 647 (D.S.C. 2006). Therefore, to the extent that Plaintiffs are seeking damage for the intentional infliction of emotional harm (See eg., Complaint ¶ 24), such damages are undeniably not recoverable under the SCTCA. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the Defendant is also appropriate.

III. FCSD is not Liable Under the Public Duty Rule.

The FCSD is also not liable to the Plaintiffs pursuant to the public duty rule. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

To recover for negligence, Plaintiffs must show: (1) a duty of care owed by the Defendant to the Plaintiff; (2) a breach of that duty by a negligent act or omission; and (3) damage proximately resulting from the breach. South Carolina Ins. Co. v. James C. Greene & Co., 290 S.C. 171, 348 S.E.2d 617 (Ct. App. 1986). The absence of any one of these elements renders the cause of action insufficient. South Carolina State Ports Authority v. Booz-Allen & Hamilton Inc., 289 S.C. 373, 346 S.E.2d 324 (1986). The existence of a duty owed is a question of law for the courts. Ballou v.

Sigma Nu General Fraternity, 291 S.C. 140, 352 S.E.2d 488 (Ct. App 1986).

Furthermore, under the “public duty rule,” public officials are generally not held liable to individuals for negligence in discharging public duties because the duty is owed to the public at large and not to any one individual. Wells v. City of Lynchburg, 331 S.C. 296, 501 S.E.2d 746 (Ct. App. 1998). “The public duty rule is a negative defense which denies an element of the [P]laintiff’s cause of action--the existence of a duty of care to the individual [P]laintiff. The burden is on the [P]laintiff to show a duty of care was owed to him.” Rayfield v. South Carolina Dep’t of Corrections, 297 S.C. 95, 106-07, 374 S.E.2d 910, 916 (Ct. App. 1988).

Importantly, our South Carolina Supreme Court has also held that police officers owe a duty of care to the public at large and not to any one individual. Specifically, in Wyatt v. Fowler, 326 S.C. 97, 484 S.E.2d 590 (1997), Wyatt sued the sheriff and his deputies in common-law negligence over events arising out of the serving of an arrest warrant. Fowler maintained that he could not be sued in negligence because any duty owed to Wyatt was in fact a duty owed to the public only. Our Supreme Court agreed and held that the police owe a duty to the public at large and not to any one person individually. Id. SROs are also police officers and owe a duty generally to society rather than to any one individual. Therefore, Deputy Green owed a duty not to M.Y.S., but to the public at large at West Florence. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

IV. Hannah Secka Lacks Standing to Bring Suit and Should be Dismissed From this Action.

To the extent that Ms. Secka is not the lawful guardian or parent of minor M.Y.S.,⁴ she

⁴ It is undisputed that M.Y.S. is now over the age of eighteen (18) years (Ex. 1 – M.Y.S. Depo. p. 6).

should also be dismissed from the case. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

Notably, the record contains no indication that Hannah Secka is the lawful parent or guardian of minor M.Y.S., other than Ms. Secka's own allegations. Likewise, M.Y.S. undeniably is over eighteen (18) years of age. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

V. *Punitive Damages Are Not Available to the Plaintiffs.*

Punitive damages are also not available to the Plaintiffs. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

Plaintiffs' Complaint seemingly seeks punitive damages from the Defendants. (Complaint ¶ 25). However, the SCTCA expressly states that "[n]o award for damages under this chapter shall include punitive or exemplary damages." S.C. Code Ann. § 15-78-120(b). Similarly, in MacMurphy v. S.C. Dep't of Highways and Public Transp., the South Carolina Supreme Court reaffirmed the general rule that "in the absence of statutory authority there is no right to recover exemplary or punitive damages against a municipal corporation... or state... [.]” 295 S.C. 49, 51, 367 S.E.2d 150, 151 (1988). As a result, there is no statutory authority providing for the recovery of punitive damages from the State of South Carolina or its political subdivisions and agencies in this context on Plaintiffs' tort theories. Again, the Tort Claims Act explicitly states that, "[n]o award of damages under this chapter shall include punitive or exemplary damages...[.]” See S.C. Code Ann. § 15-78-120(b); Charleston Co. Sch. Dist. v. State Budget & Control Bd., 313 S.C. 1, 437 S.E.2d 6, 9 (1993). Consequently, the Plaintiffs undeniably may not recover punitive damages against the FCSD. No genuine issue of material fact exists in this regard. For this reason, summary

judgment in favor of the FCSD is also appropriate.

VI. Plaintiffs' alleged damages were not caused by the FCSD.

Plaintiffs' alleged damages were also not caused by the FCSD. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

In order for Plaintiffs' action to survive, the elements of a negligence action must be present. The elements for a cause of action for the tort of negligence are: (1) a duty owed to the plaintiff by the defendant, (2) a breach of that duty by the defendant, and (3) damages proximately resulting from the breach of duty. Bishop v. South Carolina Dep't of Mental Health, 331 S.C. 79, 502 S.E.2d 78 (1998). The requirement of damages has been further honed to provide: "(1) damages must bear some reasonable relation to plaintiff's actual loss, [...] and (2) damages may not be based on speculation." Carolina Winds Owners' Ass'n v. Joe Harden Builder, Inc., 297 S.C. 74, 79, 374 S.E.2d 897 (Ct. App. 1988). Regarding the Plaintiffs' current action, both prongs have fallen short.

Plaintiffs alleged mental and physical damages were not caused by the FCSD. Plaintiffs alleged damages are based solely on surmise and speculation. M.Y.S.'s only real issue with Officer Green was a feeling of being disrespected. (Ex. 1 – M.Y.S. Depo p. 29, 50). According to M.Y.S. himself, his main issue with Officer Green was his "ride to Effingham comment" (Ex. 1 – M.Y.S. Depo p. 29). M.Y.S.'s entire claim hinges on comments made by a Deputy Sheriff during the course of an active criminal investigation. (M.Y.S. Depo p. 32). The Plaintiffs suffered no wrong and/or harm. No genuine issue of material fact exists in this regard.

To the contrary, following M.Y.S.'s encounter with Deputy Green, there was no change in

the prescribed medicines he was taking. (Ex. 9 – M.Y.S. Medicals – Bates 165, 168). The medicines M.Y.S. took after the allegedly damaging event are the same medicines M.Y.S. needed to take before the allegedly damaging event (Ex. 9 – M.Y.S. Medicals – Bates 165, 168). M.Y.S.’s medicals also undeniably do not evidence any anxiety or depression following the event. In fact, they indicate the opposite. (Ex. 9 – M.Y.S. Medicals – Bates 175).

After October 14, 2019, M.Y.S. continually denied having anxiety and depression when his doctors asked about any such symptoms. (Ex. 9 – M.Y.S. Medicals – Bates 175). M.Y.S. denied depression and anxiety and was found to be well nourished and well developed on January 20, 2020. M.Y.S. also denied anxiety and depression on April 22, 2020. When asked about his mental state, M.Y.S. again denied depression and anxiety on October 23, 2020. M.Y.S.’s doctors reported him to raise no concerns of mood or depression on June 14th, 2021. (Ex. 9 – M.Y.S. Medicals – Bates 175, 183, 196). The only depression after M.Y.S. was investigated by Deputy Green was attributed to the death of his brother. (Ex. 9 – M.Y.S. Medicals – Bates 225, 226). The depression diagnosis makes no mention of Deputy Green or FCSD. No genuine issue of material fact exists in this regard.

In sum, M.Y.S. suffered no harm attributable to FCSD. The injuries alleged by Plaintiffs were not proximately caused by any actions of the FCSD. The emotional injuries claimed by Ms. Secka have also been explicitly denied by M.Y.S. in his communications with his doctor and his doctors have attributed any emotional distress to other causes such as family troubles. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

Conclusion

For the reasons stated herein, the FCSD respectfully requests that this Court grant its motion for summary judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, that the Plaintiffs' claims against them be dismissed in their entirety, that judgment in its favor be granted, and that the FCSD be awarded their attorney's fees and costs in the successful defense of this frivolous action.

WILLCOX, BUYCK & WILLIAMS, P.A.

By: s/ J. Scott Kozacki
J. Scott Kozacki
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ATTORNEY FOR THE FCSD

October 23, 2023
Florence, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FOR THE TWELFTH JUDICIAL CIRCUIT
 COUNTY OF FLORENCE)

IN RE: Hannah J. Secka, individually and) CASE NO. 2021-CP-21-02121
 as parent and guardian for the minor M.Y.S.)

Plaintiff)

vs.)

Florence County School District One and)
 Florence County Sheriff's Department,)

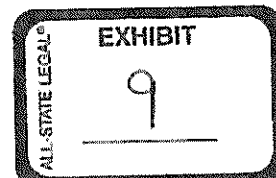
Defendants)

RECORDS CUSTODIAN AFFIDAVIT
 FOR EASTERN CAROLINA PEDIATRICS

Before me, the undersigned authority, personally appeared who first being duly sworn or affirmed by me, under penalty of perjury, deposed as follows

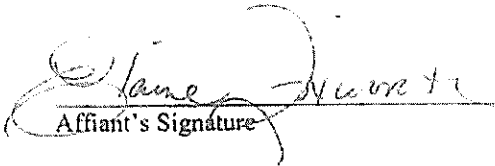
1. My name is Shane Fawcett. I am over the age of 18 and fully competent to make this affidavit. The facts stated herein are true and correct and are based on my personal knowledge.
2. I am the custodian of the records for Eastern Carolina Pediatrics.
3. Attached hereto are 257 pages from said business, regarding the medical records of [REDACTED], Date of Birth [REDACTED].
4. These said pages of records are kept by said business in the regular course of business.
5. It is the regular practice of said business for an employee or representative with knowledge of the act, event, incident, order, transaction, invoice, condition, photo, video recording, audio recording, opinion, or diagnosis, to make the record, or to transmit information thereof to be included in such record.
6. The said records were made at or near the time of occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters.
7. The said records are accurate, complete and true copies of the documents maintained in our possession and/or control.

1

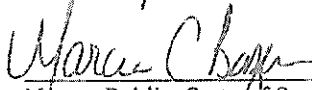


8. The said records attached hereto are the originals or exact duplicates of the originals.

FURTHER AFFIANT SAYETH NOT.


Affiant's Signature

Sworn to me this 21
day of September, 2022


Notary Public, State of South Carolina
My commission expires: 04/27/30

[REDACTED] (18 Years) Date of service 09-27-2019

1 of 1

Patient: [REDACTED]

Address: [REDACTED]

Date of b: [REDACTED]

Visit Date: 09/27/2019

[REDACTED]
Florence, SC 29501

Medical: [REDACTED] Sex: Male

Phones: [REDACTED]

Status: Complete.

Visit Last Changed: 09/27/2019 11:30 AM

CC / HPI:

Current Medication:

Dilantin oral

ProAir HFA 90 mcg/actuation aerosol inhaler, 1 -2 Puff(s) INH Q4H as needed, 3 refills for a total of 2, start on July 01, 2019, end on October 22, 2020 Completed Rx

Naprosyn oral

Topamax oral

Focalin XR 20 mg capsule,extended release oral

Zyrtec 10 mg tablet, 1 Tablet(s) PO daily, 30 days 5 refills for a total of 30 start on August 08 2019, end on February 03, 2020 Completed Rx

Naprosyn 500 mg tablet, Tablet(s) TAKE ONE TABLET BY MOUTH TWICE DAILY AS NEEDED for a total of 60, start on August 08, 2019, end on December 01, 2019 Completed Rx

Zolof 25 mg tablet, 1 Tablet(s) PO daily 30 days 5 refills for a total of 30 start on July 01 2019, end on December 27, 2019 Completed Rx

Zantac oral

Seroquel 50 mg tablet, TAKE ONE TABLET BY MOUTH ONCE DAILY for a total of 30, start on September 21, 2018, TAKE ONE TABLET BY MOUTH ONCE DAILY Completed Rx

Claritin-D 24 Hour 10 mg-240 mg tablet,extended release 1 Tablet(s) PO daily 30 days for a total of 15, start on January 29 2019, end on February 27 2019, maintenance drug Completed Rx

Diastat rectal

Review of history

I reviewed the documented medication history

ROS:

Vital Signs:

PE

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1 of 3

Visit Date: 12/02/2019

Sex: Male

Status: Complete. This visit was automatically created to process a refill request.
Visit Last Changed: 12/02/2019 11:47 AM

CC / HPI:

Current Medication:

Dilantin oral

ProAir HFA 90 mcg/actuation aerosol inhaler, 1 -2 Puff(s) INH Q4H as needed, 3 refills, for a total of 2 start on July 01 2019, end on October 22 2020 Completed Rx

Naprosyn oral

Topamax oral

Focalin XR 20 mg capsule, extended release, oral

Zyrtec 10 mg tablet, 1 Tablet(s) PO daily 30 days 5 refills, for a total of 30 start on August 08 2019, end on February 03, 2020 Completed Rx

Zoloft 25 mg tablet, 1 Tablet(s) PO daily, 30 days 5 refills for a total of 30 start on July 01, 2019, end on December 27 2019 Completed Rx

Zantac oral

Seroquel 50 mg tablet, TAKE ONE TABLET BY MOUTH ONCE DAILY, for a total of 30, start on September 21, 2018 TAKE ONE TABLET BY MOUTH ONCE DAILY Completed Rx

Claritin-D 24 Hour 10 mg-240 mg tablet, extended release 1 Tablet(s) PO daily, 30 days, for a total of 15, start on January 29, 2019, end on February 27 2019 maintenance drug Completed Rx

Diastat rectal

ROS:

Vital Signs

PE:

Dx:

Rx:

Naprosyn 500 mg tablet, TAKE 1 TABLET BY MOUTH TWICE DAILY AS NEEDED 2 refills for a total of 60

Generated on 9/13/2022

Printed on 9/13/2022 by Elaine Page 1 of 3

1 of 5

Visit Date: 01/20/2020

Sex: Male

Status: Complete.

Visit Last Changed: 01/20/2020 06:14 PM

CC / HPI:

10th WF

He presented with Attention Deficits.

In addition, he presented with ADHD Recheck. Denies GI upset. Denies headaches. Normal Diet adequate. The complaint does not limit activities. Pertinent findings include Denies anorexia, Denies anxiety and Denies depressed mood.

Current Medication:

Naprosyn 500 mg tablet, TAKE 1 TABLET BY MOUTH TWICE DAILY AS NEEDED, 2 refills, for a total of 60, start on December 02, 2019, end on April 21, 2020, TAKE 1 TABLET BY MOUTH TWICE DAILY AS NEEDED, Completed Rx

Dilantin oral

ProAir HFA 90 mcg/actuation aerosol inhaler, 1 -2 Puff(s) INH Q4H as needed, 3 refills, for a total of 2, start on July 01, 2019, end on October 22, 2020, Completed Rx

Naprosyn oral

Topamax oral

Focalin XR 20 mg capsule, extended release, oral

Zyrtec 10 mg tablet, 1 Tablet(s) PO daily, 30 days, 5 refills, for a total of 30, start on August 08, 2019, end on February 03, 2020, Completed Rx

Zantac oral

Seroquel 50 mg tablet, TAKE ONE TABLET BY MOUTH ONCE DAILY, for a total of 30, start on September 21, 2018, TAKE ONE TABLET BY MOUTH ONCE DAILY, Completed Rx

Clantin-D 24 Hour 10 mg-240 mg tablet, extended release, 1 Tablet(s) PO daily, 30 days, for a total of 15, start on January 29, 2019, end on February 27, 2019, maintenance drug, Completed Rx

Diastat rectal

Review of history

I reviewed the documented ecp standard sheet: tobacco, medication, specialty, drug allergy and food allergy histories.

ROS:

Constitutional The patient denied weight loss, anorexia and insomnia.

Cardiovascular The patient denied palpitations.

Gastrointestinal The patient denied abdominal pain and nausea.

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1 of 5

Visit Date: 04/22/2020

Sex: Male

Status: Complete.

Visit Last Changed: 04/22/2020 11:33 AM

CC / HPI:

He presented with Attention Deficits

In addition, he presented with ADHD Recheck. Denies GI upset. Denies headaches. Normal Diet adequate. The complaint does not limit activities. Pertinent findings include Denies anorexia, Denies anxiety and Denies depressed mood.

Current Medication:

Naprosyn 500 mg tablet, Tablet(s) TAKE 1 TABLET BY MOUTH TWICE DAILY AS NEEDED. 2 refills for a total of 60, start on April 22, 2020, end on October 22, 2020. Completed Rx

Dianlin oral

ProAir HFA 90 mcg/actuation aerosol inhaler. 1-2 Puff(s) INH Q4H as needed. 3 refills for a total of 2, start on July 01, 2019, end on October 22, 2020. Completed Rx

Naprosyn oral

Topamax oral

Focalin XR 20 mg capsule, extended release, oral

Zantac oral

Seroquel 50 mg tablet, TAKE ONE TABLET BY MOUTH ONCE DAILY for a total of 30, start on September 21, 2018. TAKE ONE TABLET BY MOUTH ONCE DAILY. Completed Rx

Clarin-D 24 Hour 10 mg-240 mg tablet, extended release, 1 Tablet(s) PO daily, 30 days for a total of 15, start on January 29, 2019, end on February 27, 2019, maintenance drug. Completed Rx

Diastat rectal

Zolof 25 mg tablet, 1 Tablet(s) PO daily, 30 days, 5 refills for a total of 30, start on April 22, 2020, end on October 18, 2020. Completed Rx

Review of history

I reviewed the documented medication and medical histories

ROS:

Constitutional The patient denied fever, weight loss, recent illness, anorexia and insomnia

Eyes The patient denied eye discharge

Ears/Nose/Throat/Neck The patient denied otalgia, sore throat, nasal discharge and sinus congestion

Cardiovascular The patient denied palpitations

Respiratory The patient denied asthma, wheezing and cough

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1 of 5

Visit Date: 10/23/2020

Sex: Male

Status: Complete.

Visit Last Changed: 10/23/2020 04:24 PM

CC / HPI:
with mom

He presented with Attention Deficits

In addition, he presented with ADHD Recheck. Denies GI upset. Denies headaches. Normal Diet adequate. The complaint does not limit activities. Pertinent findings include Denies anorexia, Denies anxiety and Denies depressed mood.

Current Medication:

Dilantin oral
loratadine 10 mg tablet, 1 Tablet(s) PO daily, 30 days, 5 refills, for a total of 30, start on June 23, 2020, end on December 19, 2020, Completed Rx
Naprosyn oral
Topamax oral
Focalin XR 20 mg capsule, extended release, oral
Zantac oral
Seroquel 50 mg tablet, TAKE ONE TABLET BY MOUTH ONCE DAILY, for a total of 30, start on September 21, 2018, TAKE ONE TABLET BY MOUTH ONCE DAILY, Completed Rx
Claritin-D 24 Hour 10 mg-240 mg tablet, extended release, 1 Tablet(s) PO daily, 30 days, for a total of 15, start on January 29, 2019, end on February 27, 2019, maintenance drug, Completed Rx
Diastat rectal

Review of history

I reviewed the documented eco standard sheet, tobacco, medication, specialty, drug allergy and food allergy histories.

ROS:

Constitutional The patient denied weight loss, anorexia and insomnia
Cardiovascular The patient denied palpitations
Gastrointestinal The patient denied abdominal pain and nausea
Neurologic The patient denied headache
Psychiatric The patient denied anxiety and depression

Vital Signs.

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Seasons Psychology Associates, LLC

314 S McQueen Street, Florence, SC, 29501
(843)407-4440 office phone (843)407-4461 fax

Clinical Update

March 9, 2020

Re [REDACTED]

Dear Dr. Davis,

Thank you for your referral of [REDACTED]. This letter is to serve to update you on the status of his case and to coordinate care. [REDACTED] is receiving counseling services to address social and behavioral concerns. His mother brought to my attention that she is concerned about his possible use of marijuana while at school. I have referred the family to Circle Park to take part in their Outpatient Adolescent Drug Treatment Services. Ms. Secka informed me that you are monitoring him medically for any concerns but I wanted to make you aware of the additional services I recommended. I will continue to see the family for mental health concerns and coordinate care with Circle Park.

Please feel free to contact me if we can be of further assistance. I can be reached by email (Pritchard.boone@gmail.com) or by phone (843-407-4440). Thank you for the continued referrals and your personal dedication to the care of your patients.

Sincerely,



Lea Pritchard-Boone, Ph.D.
Licensed Clinical Psychologist



Seasons Psychology Associates, LLC

314 S McQueen Street, Florence, SC, 29501
(843)407-4440 office phone (843)407-4461 fax

September 16, 2020

Re: [REDACTED]

To Whom it may Concern,

At the request of [REDACTED]'s mother, Hannah Secka, I am writing to provide a clinic update. [REDACTED] is a patient of Seasons Psychology where he is receiving psychotherapy services. Using the Diagnostic and Statistical Manual-V (DSM-V) criteria [REDACTED] meets criteria for DSM-5, 299.0, F.84) Autism Spectrum Disorder (ASD) requiring substantial support for deficits in social communication and requiring support for restricted, repetitive behaviors with accompanying intellectual impairment-nonverbal reasoning abilities impairment and with speech language impairment-social pragmatic speech delay. [REDACTED]'s ASD is associated with: (DSM-5, 315.1, F81.2) Specific Learning Disorder with impairment in Mathematics. (DSM-5, 315.00, F81.0) Specific Learning Disorder with impairment in Reading. (DSM-5, 309.4, F43.25) Adjustment Disorder with Emotions and Conduct and several medical conditions

[REDACTED] suffered the recent tragic loss of his older brother on February 26, 2020. He has been seen for 14 sessions to date, to address his acute grief response and other adjustment concerns. During these sessions it was apparent that he has struggled with significant symptoms of depression and has struggled to engage in some therapy sessions, social contact, and schooling. I have been monitoring the worsening or consistently severe depression since the loss of his brother and believe he will continue to require psychotherapy care to assist in his adjustment to so many life changes. It is important to note that the new telemedicine virtual platform is not ideal for [REDACTED] and has created some barriers to treatment. I look forward to continued work with this family and am available for further information with proper consent. I can be reached at the contact information above.

Sincerely,

Lea Pritchard-Boone, PhD

Lea Pritchard-Boone, Ph.D
Licensed Clinical Psychologist

E-TRANSCRIPT OF DUE PROCESS HEARING

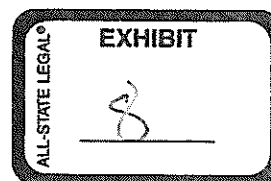
Date and Time:

Tuesday, April 10, 2019
9:50 a.m. - 3:45 p.m.

Wednesday, April 11, 2019
9:25 a.m. - 12:50 p.m.

CASE: Hannah L. Secka on behalf of minor child, M.Y.N.S.
and Florence I Schools

Printed On: May 1, 2019



URSO COURT REPORTING
Phone: (803) 960-2604

1 A: They were saying that he got a shadow, they don't
2 have to have a shadow. He got a shadow, and they
3 don't have to have a shadow, and they were like say
4 that a lot, about him having somebody to follow him,
5 and they don't have that. They often say that to
6 him, different ones.

7 Q: Do they make any other comments towards him that you
8 would consider bullying?

9 A: Yes, they would talk about his clothes, or his shoes
10 or something like that, the shoes on his feet that
11 he be wearing.

12 Q: To your knowledge did you witness M.Y.N.S. report
13 any of these incidents to teachers or
14 administration?

15 A: No.

16 Q: Are you do you keep a log or any kind of record
17 of M.Y.N.S.'s behavior?

18 A: Yes, every day, daily. Daily I write things down.

19 Q: Do you provide, do you turn those records in to
20 anyone?

21 A: Yes, Ms. Waldron.

22 Q: When do you turn those records in?

23 A: I normally give it to her at the end of the week, or
24 Monday, beginning of the week.

25 Q: To your knowledge, do you have any knowledge of the

DUE PROCESS HEARING - 4-10 & 11, 2019

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1 walked him back. They all walked him back to the
2 office.

3 Q: The assistant principal is not an SRO?

4 A: That I know, huh-uh.

5 Q: And then in the office when M.Y.N.S. was questioned,
6 no SRO was present, correct?

7 A: No, just them.

8 Q: And you said you'd witnessed some students saying
9 things to M.Y.N.S. about his having a shadow?

10 A: Uh-huh.

11 Q: Did you make a record of when students would make
12 those comments?

13 A: Sometime I did and sometime I didn't. I just
14 sometime I record it, sometime I just didn't record
15 it because I have so much to write down in that one
16 spot.

17 Q: And did you ever did you generally report
18 through Ms. Waldron?

19 A: Yes.

20 Q: She's the resource teacher?

21 A: Resource teacher, uh-huh.

22 Q: And did you ever report to Ms. Waldron any concerns
23 about M.Y.N.S. being bullied or harassed?

24 A: No, I never mentioned it, no, I never mentioned that
25 to her.

DUE PROCESS HEARING - 4-10 & 11, 2019

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1 didn't because we stopped it, we stopped them
2 because the boy jumped up and was ready to fight,
3 but I told them no, they can't do that. There won't
4 be a fight. He wanted to fight M.Y.N.S., but
5 M.Y.N.S. didn't want to fight, but he wanted to
6 fight. This same little boy just started again.
7 They got loud when they got out of class, a lot of
8 cursing and stuff, this other boy, but M.Y.N.S.
9 maintained. I just took him on to class. They just
10 bother him a lot by petty stuff, M.Y.N.S. is a
11 friendly person, and they love to jump in on him all
12 the time and start this because it comes from
13 before.

14 Q: Have you ever witnessed a situation where a school
15 official physically assaulted M.Y.N.S.?

16 A: No, I never. M.Y.N.S., well, not here, not here.

17 HEARING OFFICER: Do either of you have
18 questions as a result of my questions?

19 MS. STOUT: No, I do not.

20 MR. REAGLE: No questions.

21 HEARING OFFICER: Any other questions for Ms.
22 Johnson?

23 MS. STOUT: No.

24 HEARING OFFICER: Thank you, Ms. Johnson,
25 appreciate your testimony. You're excused.

3/15/21 3:31 PM

Student Discipline Summary

Student Discipline Summary

For Student: [REDACTED]

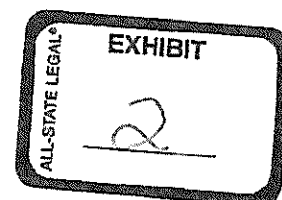
Date Range: 06/06/2009 to 05/02/2023

Row Count	Incident Date	School	Behaviors	Actions	Attributes	Description	Entry Author	Created By	Incident ID
1	02/11/2022 10:15:00 AM	WPH	• 270 Refusal to Obey/Defiant*	• Suspension* (In-School (No Services Provided))* for 1 Day*		Reported by: MCCALL JAMES Student was called by Mr. Stambler to come to him for a second and continued walking. I called for the student and he continued walking to the C-Hall restroom.	MCCALL, JAMES	ABE 2016	950345
2	10/29/2019 12:16:03 PM	WPH	• 270 Refusal to Obey/Defiant*	• Suspension* (In-School (Services Provided))* for 1 Day*		Reported by: KIRKHAM, KAREN Student refused to take off Do-rag and hood and would not put phone away to work on review worksheet. This student was asked on 5 separate occasions going back to his desk to take it off. On the 5th time he said he was not going to do it and refused. The Do-rag and hoodie has been a daily issue at the start of class and also when he returns from 3rd lunch. I have documented on paper the days he has had them on and I have had to ask multiple times for him to remove. Student refused to take off Do-rag and hood and would not put phone away to work on review worksheet. The student was asked on 5 separate occasions going back to his desk to take it off. On the 5th time he said he was not going to do it and refused. The Do-rag and hoodie has been a daily issue at the start of	COLEMAN CHRISTOPHER	ABE 2016	701262

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3/15/23, 3:33 PM

Student Discipline Summary

For Student: [REDACTED]

Date Range: 06/06/2009 to 06/02/2023

Row Count	Incident Date	School	Behaviors	Actions	Attributes	Description	Entry Author	Created By	Incident ID
3	10/14/2016 08:25:00 AM	WPH	• 009 Fighting^ (Provoked^)	• Suspension^ (in-School (Services Provided)^) for 2 Days^		class and also when he returns from 3rd lunch. I have documented on paper the days he has had them on and I have had to ask multiple times for him to remove. (AP changed to a different behavior code) Reported by: DOWDELL, MATTHEW [REDACTED] exited the school building at 8:20 am and headed towards the parking lot. He went out to there and got into a physical altercation with another student. When questioned about the incident [REDACTED] denied getting into the physical altercation. A cell phone video of the incident was taken by another student and turned into administration. Yaser got into a physical altercation. When I tried calling his mother about the incident she hung up on me twice stating that she did not ever want to talk with me. I sent her an email about the incident so she would know what happened (AP changed to a different behavior code)	DOWDELL, MATTHEW	ABE, 2016	768214
4	10/07/2016 02:15:00 PM	WPH	• 130 Phone Violation^	• Conference^ (Student^)		Reported by: SHEAFY, NATALIE Portable electronic device used and unauthorized times After telling the entire class to stay off their phones and computers during instruction, [REDACTED] continued to play on his chrome book with his ear phones in during an educational video that I used to introduce our Unit on the Holocaust (AP changed to a different behavior code)	COLEMAN, CHRISTOPHER	ABE, 2016	731801
5	09/07/2016 09:24:00 AM	WPH	• 190 Cheating^	• Conference^ (Student^) for 1 Day^		Reported by: EDWARDS, SAVANNA Cheating during a test [REDACTED] pulled out his cell phone during a test	SINKLER, JAMES	ABE, 2016	559201

<http://www.powerschool.com/admin/reports/crt/incidents/StudentDisciplineSummary.html>

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Student Discipline Summary

For Student: [REDACTED]

Data Range: 06/06/2009 to 06/02/2023

Row Count	Incident Date	School	Behaviors	Actions	Attributes	Description	Entry Author	Created By	Incident ID
6	04/13/2018 01:40:00 PM	SMS	• 270 Refusal to Obey/Defiant*	• Behavioral Contract/Plan*		This is a big dent that is displayed on my board for all tests. Cheating is unacceptable in my eyes. I attempted to call mom but was unsuccessful in reaching her. I believe this offense is something that should go straight to a write up. His shadow witnessed the incident and agreed that this was a serious offense and should be treated as such. Reported by: LUHRS, KATHY He was playing on his phone. When I asked him to bring it to me, he said, "that's fucked up!" When I asked him to stop talking and asked his shadow to take him out, he looked me straight in the eye and said, "You're crazy!" (AP changed to a different behavior code.)	CAGLE, HAYLEY	ABE, 2016	535492
7	02/21/2018 01:00:00 PM	SMS	• 614 Hit/Kick/Push*	• Suspension* (In-School (Services Provided))* for 1 Day*		Reported by: CAGLE, HAYLEY Hit, Kick, Push Students were playing basketball and talking inappropriately to each other resulting in a pushing match. (AP changed to a different behavior code.)	CAGLE, HAYLEY	ABE, 2016	533150
8	02/06/2018 12:35:00 PM	SMS	• 009 Fighting* (Provoked*)	• Suspension* (Out of School (No Services Provided))* for 2 Days*		Reported by: CAGLE, HAYLEY Attack on Student Student was "trusting" another student about his girlfriend, the boy went back and forth. [REDACTED] told the other student to go into the bathroom to fight. The other student went, but [REDACTED] did not. When the other student came back He pushed [REDACTED] on the head and [REDACTED] stood up and a fight ensued. An administrator was struck in the process. (AP	CAGLE, HAYLEY	ABE, 2016	530446

3/15/23, 3:33 PM

Student Discipline Summary

For Student: [REDACTED]

Date Range: 06/06/2009 to 06/02/2021

Row Count	Incident Date	School	Behaviors	Actions	Attributes	Description	Entry Author	Created By	Incident ID
9	12/13/2017 11:30:00 AM	SMS	• 009 Fighting* (Provoked*)	• Suspension* (Out of School (No Services Provided*)) for 2 Days*		changed to a different behavior code.) Reported by: CAGLE, HAYLEY Fighting Student was being teased by another student in the classroom with a substitute. Student became angry and got up, ran over and hit the other student in the face which caused a fight. (AP changed to a different behavior code.)	CAGLE, HAYLEY	ABE, 2016	626266
10	10/19/2017 08:45:00 AM	SMS	• 210 Profanity* (Staff*)	• Suspension* (Out of School (No Services Provided*)) for 1.5 Days*		[REDACTED] was asked to put his book away and start on his bellwork. [REDACTED] refused. A couple minutes later, Mrs. Luths asked him again to put his book away and he refused. Mrs. Luths tried to redirect [REDACTED] and he responded with profanity asking her "what the fuck is wrong with you?" and to "leave him alone." Administration/Guidance was called. Mrs. Long asked [REDACTED] several times to come with her and [REDACTED] refused. The front office was called again and Mrs. Brown also went to Mrs. Luths class. [REDACTED] finally left the class with Mrs. Brown and mom was contacted.	BARLOW JENNIFER	ABE, 2016	617079
11	09/28/2017 01:12:00 PM	SMS	• 406 Horseplay*	• Suspension* (In-School (Services Provided*)) for 1 Day*		[REDACTED] and another student was standing at the counter using my coloring pencils to complete an assignment. I saw [REDACTED] pull down the pants of this student.	BARLOW JENNIFER	ABE, 2016	513545
12	09/27/2017 09:00:03 AM	SMS	• 022 Inappropriate Physical Contact*	• Suspension* (In-School (Services Provided*)) for 1 Day*		On Tuesday, I had to ask [REDACTED] times to put his cell phone away. I warned him that the next time, I would have to take the phone. On Wednesday, he was on his phone again in	BARLOW JENNIFER	ABE, 2016	513550

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Student Discipline Summary

For Student: [REDACTED]

Date Range: 06/06/2009 to 06/02/2023

Row Count	Incident Date	School	Behaviors	Actions	Attributes	Description	Entry Author	Created By	Incident ID
						class. I asked him to put it away. Less than 5 minutes later, he had the phone out again and was using it. Again, I asked him to put the phone away and told him that the next time, I would take the phone. Once again, he waited and then had the phone out again and was texting. I walked to his desk and held out my hand. He knew what I meant and put the phone in my hand. I continued with class. A few minutes later, [REDACTED] was talking to another group and was asked to turn around and to stop talking to that group. He continued to talk and I again, asked him to stop, he told me to, "Kiss my black ass." I thought that was what I had heard but asked him what he had said. He repeated exactly what he had said. I went to my desk and wrote a note as to what had happened. He kept asking me what I was doing. He was disrupting the other students. We continued class. After class, he demanded that I give him back his phone. I refused. He said he would just go get it from my desk. I went to my desk and he came at me and pushed me away because I was blocking him from going into my desk drawer. I got his phone out of the drawer and put it in my pocket to take it to an administrator. He got extremely close to me and was yelling at me and demanding that I give him the phone. I kept walking and he followed behind me very			

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Student Discipline Summary

For Student: [REDACTED]

Date Range: 06/04/2009 to 06/02/2023

Row Count	Incident Date	School	Behaviors	Actions	Attributes	Description	Entry Author	Created By	Incident ID
13	09/08/2017 09:00:00 AM	SMS	• 017 Inappropriate Behavior*	• Suspension* (In-School (Services Provided)*) for 1 Day*		close. When we got in the hall, he once again yelled at me to give him his phone. I ignored him. He then reached out and hit me in the arm and told me that I better give him his phone. I kept walking. When we reached the administrators office, I gave his phone to her. [REDACTED] began to try to forcibly take the phone from her. He then began to yell at me. He was screaming, "I hope you die. I hope you burn in hell" over and over again in the hall. He came in late to class (bus was late) instead of coming to his seat and being quiet, he came in and stopped to have conversations with his classmates. He was asked to have a seat and get quiet. He wanted to argue but did go sit down. When he got to his seat, he took a small dry erase board off another student's desk. [REDACTED] could not give it back and kept trying to keep it from the student and the board broke. When he was told that he shouldn't have taken the board off another student's desk, he became argumentative. He then got disrespectful by making comments behind my back. When asked what he said, he became very rude and disrespectful. The entire class was disrupted and I had to ask him to leave the class so we could continue.	BARLOW JENNIFER	ABE, 2016	610*68
14	05/16/2017 02:30:00 PM	SMS	• 210 Profanity* (Staff*)	• Suspension* (In-School (Services Provided)*) for 1 Day*		Notes entered by Mrs. Cagle, Hayley on 05/18/2017 02:33 PM. I asked him to unplug his phone from the	Perry, Lisa	ABE, 2016	597434

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Student Discipline Summary

For Student: [REDACTED]

Date Range: 06/06/2009 to 06/02/2023

Row Count	Incident Date	School	Behaviors	Actions	Attributes	Description	Entry Author	Created By	Incident ID
						computer (kids are not allowed to have them plugged in) and redirected him. 2. I caught him looking at "sexy jeans" online and redirected him. 3. I caught him watching a YouTube video instead of working on the project with his group. 4. I let him know that he would no longer be able to work on the computer, but would have to do his research for the project by hand. 5. He told me, "diss my ass." 6. I sent him to BHC. 7. I tried to call his Mom around 5:30 on 5/16, but received a message that her phone is not accepting calls. I did not want to put the information in an email.			
15	03/15/2017 10:15:00 AM	SMS	• 016 Inappropriate Language*	• Suspension* (In-School (Services Provided)* for 1.5 Days*		Notes entered by Mrs. Cagle, Hayley on 03/15/2017 02:45 PM Student used profanity towards a substitute teacher	Cagle, Hayley	ABE 2016	527686
16	02/28/2017 01:00:00 PM	SMS	• 270 Refusal to Obey/Defiant* • 270 Refusal to Obey/Defiant*	• Suspension* (Out of School (No Services Provided)* for 1 Day* • Suspension* (In-School (No Services Provided)* for 1 Day*		Notes entered by Mrs. Cagle, Hayley on 03/01/2017 07:25 PM The class was instructed several times that when the whistle blew, dribbling and shooting would stop. The class was warned again about this. The next warning, they were told if it happened again the person would run 5 laps. [REDACTED] dribbled the next time. I told him he could walk or run 5 laps. He told me he would report my ass to Mrs. Cagle. He also said, "Your ass can leave me alone." He then went from basket to basket shooting, and disrupting every group in the class.	Amoldt, Valerie	ABE 2016	508152
17	02/09/2017 02:00:03 PM	SMS	• 007 Disrupting Class*	• Suspension* (In-School (Services		Notes entered by Mrs. Cagle, Hayley on 02/09/2017 10:22 PM	Sutton, Kayice	ABE 2016	135500

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Student Discipline Summary

For Student: [REDACTED]

Date Range: 06/08/2019 to 06/02/2023

Row Count	Incident Date	School	Behaviors	Actions	Attributes	Description	Entry Author	Created By	Incident ID
				Provided*) for 1 Day*		Student got into a verbal altercation with another student during class and threatened to "beat his ass". Student also provoked the other by saying, "what the f*** are you going to do about it". Notes entered by Ms. Sutton, Kaylee on 02/09/2017 10:05 PM Student given ISS to work on triggers. Module given			
18	02/09/2017 08:10:00 AM	SMS	• 016 Inappropriate Language*	• Suspension* (In-School (Services Provided*)) for 1 Day*		Notes entered by Mrs. Cagle, Hayley on 02/09/2017 10:20 PM I asked student 3 times to take his hood off. Student turned and stated, "Who the f*** is she talking to?" Notes entered by Ms. Cross, Vikki on 02/09/2017 01:51 PM Student was given ISS instead of OSS to work on triggers	Cross, Vikki	ABE, 2016	485520
19	10/26/2016 10:15:00 AM	SMS	• 420 Disrespect*	• Suspension* (In-School (Services Provided*)) for 1 Day*		Notes entered by Mrs. Edick, Nicole on 10/26/2016 05:55 PM Had a verbal back and forth with another student and said "you are an ugly ass nigger". Notes entered by Smith, Minam on 10/26/2016 03:49 PM The student will serve in school suspension on 10/31/16. Parent conference required for reinstatement to school	Smith, Minam	ABE, 2016	410397
20	10/20/2016 11:36:00 AM	SMS	• 309 Fighting* (Provoked*)	• Suspension* (Out of School (No Services Provided*)) for 2 Days*		Notes entered by Mrs. Cagle, Hayley on 10/20/2016 05:17 PM Student hit another student because he was laughing at him.	Cagle, Hayley	ABE, 2016	404641
21	05/23/2016 10:19:00 AM	BES	• 420 Disrespect*	• Suspension* (Out of School (No Services Provided*)) for 3 Days*		[REDACTED] refused to follow directions from Mrs. Thompson and Mr. Lewis. Mr. Lewis sent him to get my help he went to the baseball court to play instead. When asked to quit playing in line he said he would if he wanted	Angie Wilard	Lowman Donna	332213

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Student Discipline Summary

For Student: [REDACTED]

Date Range: 06/06/2009 to 06/02/2023

Row Count	Incident Date	School	Behaviors	Actions	Attributes	Description	Entry Author	Created By	Incident ID
22	04/25/2016 02:35:00 PM	BES	• 340 Bus Violation*	• Bus Suspension* (Alternate Transportation (Parent/Guardian)*) for 2 Days*		to, Asked to speak on a nicer tone he said he would talk like he wanted. I have asked him to stop talking for 2 weeks	Shannon Lassiter	Lowman Donna	377029
23	04/09/2016 01:35:00 PM	BES	• 014 Hit/Kick/Push*	• Conference* (Conference with Both*)		[REDACTED] and another student were arguing [REDACTED] now several punches while the other student held his arms out and tried to keep him off. One punch made contact with the other student right cheek.	Angie Willard	Lowman Donna	373566
24	03/01/2016 06:23:00 AM	BES	• 340 Bus Violation*	• Bus Suspension* (Alternate Transportation (Parent/Guardian)*) for 1 Day*		talking and playing	Angie Willard	Lowman Donna	325215
25	02/26/2016 02:20:00 PM	BES	• 340 Bus Violation*	• Conference* (Student*)		would not stop talking	Shannon Lassiter	Lowman Donna	356875
26	02/09/2016 10:10:00 AM	BES	• 210 Profanity* (Students*)	• Conference* (Conference with Both*)		He used profanity in the hallway. He refused to follow any direction given by the teacher.	Angie Willard	Lowman, Donna	275370
27	01/12/2016 08:27:00 AM	BES	• 014 Hit/Kick/Push*	• Conference* (Student*)		Fighting on basketball court @ recess	Angie Willard	Lowman Donna	226375
28	12/15/2015 08:33:00 AM	BES	• 405 Horseplay* • 290 Coercive Gesture*	• Suspension* (Out of School (No Services Provided)*) for 2 Days*		While in the courtyard [REDACTED] was horseplay and pretending to hit another student. He also pretended to pull out a gun and shoot at other students	Angie Willard	Lowman, Donna	218945
29	12/14/2015 08:56:00 AM	BES	• 007 Disrupting Class*	• Suspension* (Out of School (No Services Provided)*) for 1 Day*		Throwing paper-off task- Disrespect when corrected for excessive talking, eating gum- excessive talking. Called another student fat/pay the other student to cry and [REDACTED] called him a cry-baby and continued to berate him despite being told to stop. He told him he	Donna Lowman	Lowman, Donna	211195

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3/15/23 3:33 PM

Student Discipline Summary

For Student: [REDACTED]

Date Range: 06/06/2009 to 06/02/2023

Row Count	Incident Date	School	Behaviors	Actions	Attributes	Description	Entry Author	Created By	Incident ID
30	11/16/2015 10:30:00 PM	BES	• 014 Hit/Kick/Push*	• Conference* (Student*)		didn't care about him or his feelings Hitting another student	Donna Lowman	Lowman Donna	189279
31	11/09/2015 02:45:00 PM	BES	• 420 Disrespect*	• Bus Suspension* (Alternate Transportation (Parent/Guardian)*) for 2 Days*		[REDACTED] was out of his seat during a test. When I asked him to be seated each time he responded by saying 'Uh Huh' and would not return to his seat. When I told him that he would have to go to see Mrs. Moore for being disrespectful, he said he was not being disrespectful and refused to go. I then pressed the emergency call button.	Donna Lowman	Lowman Donna	186939
32	11/03/2015 09:42:00 AM	BES	• 420 Disrespect*	• Bus Suspension* (Alternate Transportation (Parent/Guardian)*) for 1 Day*		After related ans, he was out of his seat. He would not sit down. When I told him, he continued to talk out. When I tried to quieten him down and ask what he was doing He became belligerent. He said I was bothering him. " He did not like me" " no one like me " H continued to say those things until an administrator came. I asked if he wanted to leave, but he said " I don't want to leave."	Donna Lowman	Lowman, Donna	186053
33	10/20/2015 01:30:00 PM	BES	• 007 Disrupting Class*	• Suspension* (Out of School (No Services Provided)*) for 1 Day*		Called a student a "B" in class. When asked why he said " she was bothering me."	Thompson L and Newton T	Dean, Cherie J	182566
34	10/19/2015 02:00:00 PM	BES	• 420 Disrespect*	• Suspension* (Out of School (No Services Provided)*)		Disrespectful to staff member. " You are bothering me. " sucking teeth- continued after being asked to stop. Removed from class. Disrespectful to teacher and administrator.	Donna Lowman	Lowman, Donna	181659
35	08/18/2015 10:27:00 AM	BES	• 014 Hit/Kick/Push*	• Conference* (Conference with Both*)		Fighting	Baggett M and Newton T	Dean, Cherie J	170770
36	02/25/2015 09:10:00	BES	• 009 Fighting*	• Suspension* (Out of School (No		Fighting; when I tried to get [REDACTED] move away	Johnson S and Newton T	Dean, Cherie J	158565

http://fpcourts.net/courtsadmin/reports/robin/incidents/StudentDisciplineSummary.html

10/11

FCSD1.SECKA2 000010

3/15/23 3:33 PM

Student Discipline Summary

For Student: [REDACTED]

Date Range: 06/06/2009 to 06/02/2023

Row Count	Incident Date	School	Behaviors	Actions	Attributes	Description	Entry Author	Created By	Incident ID
	AM			Services Provided ^(*) for 1 Day [*]		from the other student, he told me "No" and went to attack the other student again. After the other student was removed, [REDACTED] went around me and punched the student again.			
37	01/26/2015 08:38:00 AM	BES	420 Disrespect[*] 320 Leaving Class[*]	Conference[*] (Student[*])		After the incident in class, [REDACTED] told me that he didn't like me and that is why nobody like me and that he didn't have to listen to me. I asked him to step outside to talk to him and he walked away into the building.	Donna Lowman	Lowman, Donna	150067
38	01/26/2015 05:29:00 AM	BES	340 Bus Violation[*]	Conference[*] (Student[*])		[REDACTED] would not stop talking to [REDACTED] after being asked to stop.	Donna Lowman	Lowman, Donna	150495
39	01/14/2015 02:30:00 PM	BES	340 Bus Violation[*]	Conference[*] (Student[*])		[REDACTED] talked all the way home.	Donna Lowman	Lowman, Donna	150496
40	01/08/2015 02:13:00 PM	BES	340 Bus Violation[*]	Conference[*] (Student[*])		[REDACTED] would not stop talking after being asked several times.	Donna Lowman	Lowman, Donna	150659
41	09/28/2013 07:00:00 AM	BES	340 Bus Violation[*]	Conference[*] (Student[*])		Student was asked twice to stop plying fighting with another student	Johnson, Sonia	Johnson, Sonia	30254

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
FOR THE TWELTH JUDICIAL CIRCUIT

Hannah J. Secka, individually and)
as parent and guardian for the minor M.Y.S.,)

CASE NO: 2021-CP-21-02121

Plaintiff,

vs.

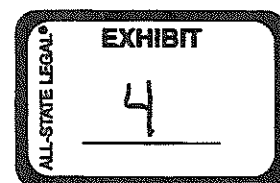
Affidavit of Jeblonski Green

Florence County School District One and
Florence County Sheriff's Department,

Defendants.

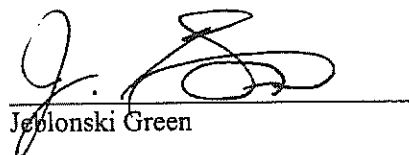
PERSONALLY APPEARED before me, Jeblonski Green, who first being duly sworn,
deposes and says:

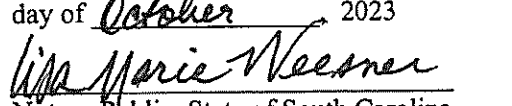
1. I am above the age of eighteen (18) and am competent to declare the facts stated herein.
2. I was employed with the Florence County Sheriff's Department ("FCSD") as a Deputy Sheriff and assigned to serve as the School Resource Officer ("SRO") at West Florence Highschool from in or about 2013 until 2020.
3. At all times relevant hereto, I was acting within the scope of my employment as a deputy sheriff.
4. I was assigned the position of SRO by the FCSD, pursuant to a Memorandum of Understanding between the FCSD and Florence County School District One ("FSD1").
5. The memorandum of understanding detailed the rights and responsibilities of the FCSD and FSD1 relative to school resource officers.
6. My job as a SRO was to enforce the law, not the policies, procedures, rules or regulations of the school district.
7. I may have questioned M.Y.S. relative to the fight but deny having to be physically restrained from ever "attacking" M.Y.S.
8. My sole interaction with M.Y.S. was questioning Plaintiff regarding fighting during schooltime. I did not ever assault, touch, intimidate, harass, disrespect, arrest, unlawfully detain M.Y.S. in any manner whatsoever. I never acted unlawfully, inappropriately, and/or outside my assigned duties as Deputy Sheriff.



9. I was following my duties of assisting in "investigation of violations of criminal laws occurring in the school or on school property" per FCSD's agreement with Florence School District One.
10. I was adequately and properly trained as a SRO, and received both the necessary training and certification in which to do so.
11. I understand that making any false statements within this affidavit may subject me to criminal liability.
12. I further attest that I am making these statements freely and voluntarily, without coercion or duress. I further state that I am not suffering from any mental conditions or taking any substances which would impair my ability to understand all matters set forth herein.

FURTHER AFFIANT SAYETH NOT.


Jeplonski Green

Sworn to before me this 20th
day of October 2023

Notary Public, State of South Carolina
My commission expires: Nov. 4, 2026

Page 1

State of South Carolina

In Common Pleas Court

County of Florence

IN Re: Hannah J. Secka,
individually and as parent and
guardian for the minor, M.Y.S.,

Plaintiff,

V.

2021-CP-21-02121

Florence County School District
One and Florence County
Sheriff's Department,

Defendants.

Deposition of: Jablonski Green

Location: 248 W. Evans Street
Florence, South Carolina

Date: Tuesday, August 22, 2023

Time: 10:19 a.m. - 11:26 a.m.

Court Reporter: Ashley Rogers

The deposition is taken pursuant to notice and/or
agreement, in the above-entitled cause pending in
the above-named court and pursuant to the South
Carolina Rules of Civil Procedure.

Q & A Court Reporting Services
Post Office Box 4563 (29502)
181 E. Evans St., Suite 203 (29506)
Florence, South Carolina
telephone: (843) 673-9845
e-mail: info@qacourtreportingonline.com
visit: www.qacourtreportingonline.com

EXHIBIT

7

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1 officer to -- between the district and the
2 sheriff's office was me being a liaison between
3 the district and the sheriff's office. I -- I --
4 my job was there to help enforce the laws, not
5 rules and regulations, not policies and
6 procedures. The law, that's what -- that's what
7 my role was at the school.

8 Q Okay. So in -- in that role or did you
9 receive any training?

10 A Yes, sir.

11 Q From who -- who provided -- who
12 provided the training?

13 A I went to S.R.O. school in -- in
14 Charleston.

15 Q Okay. Did the S.R.O. school issue a
16 certificate or --

17 A Yes, sir.

18 Q Do you have to have that certificate?

19 A I probably don't.

20 Q Okay. Do you recall what year you went
21 to S.R.O. school?

22 A 2014 -- 2013, 2014.

23 Q Who sent you to S.R.O. school?

24 A Florence County Sheriff's Office.

25 Q Who was your -- who would you consider

1 A Florence County.

2 Q -- Florence County?

3 A Yes, sir.

4 Q And they would not --

5 A Yes, sir.

6 Q -- let you come back. Or they would
7 not accept the application, so then you went to
8 Lake City?

9 A Yes, sir.

10 Q Did you get any indication why Florence
11 County Sheriff's Department would not accept your
12 application or was --

13 A No, sir.

14 Q The -- the allegations in our complaint
15 are that on or about October 15th, 2019, you were
16 physically restrained by your colleagues as -- to
17 keep you from attacking the student [REDACTED]

18 [REDACTED] Do you recall that incident?

19 A No, sir.

20 Q Do you recall on or about October 15th,
21 2019 as a result of that incident, the school had
22 to contact Lieutenant Vincent Han--- Hannah
23 regarding this incident --

24 A Which -- which incident?

25 Q That -- the same incident on October

1 because -- but it come to them that -- they -- the
2 name -- like I said, the name is -- it was very
3 funny, so that -- that brought me -- if I'm not --
4 if I'm not -- if I'm not mistaken, an altercation
5 happened in the parking lot. I was inside the
6 cafeteria so I don't know nothing about the
7 altercation. But he was brought to my office
8 because they said he and somebody -- I guess, been
9 in to a fight or some type of altercation. And,
10 again, my job is to deal with law enforcement
11 purposes only. So when -- if -- if you're in a
12 physical altercation, that's clearly an assault on
13 who behalf. Now we got to go to the cameras and
14 check the cameras to see what's going -- what
15 actually going on because I didn't physically see
16 whatever happened. And, like I said, when -- when
17 he was brought to my office, I contacted
18 Lieutenant Hannah.

19 Q Do you -- do you recall any escala---
20 any interrogation that you took -- that took place
21 in the office when he came in?

22 A Interrogation, no. I may have -- well,
23 if you would say me asking you what happened is an
24 interrogation, then, yes. But I don't -- I don't
25 see that as an interrogation of trying to find out

1 what's going on, 'cause you being brought to my
2 office. I didn't come looking for you. I didn't
3 -- I didn't -- I -- I didn't go outside trying to
4 find you because they said you was at X, Y, Z.
5 Somebody brought you to my office because they
6 saying you were in a altercation. So tell me what
7 happened. So, like I say, I...

8 Q Okay. As a result of someone coming to
9 your office, would you have filled out an incident
10 report?

11 A If the -- not just for coming to my
12 office, no, sir. If there was altercation or --
13 or we had drugs or guns on campus, yeah, I -- I
14 would do it.

15 Q Okay. So do you recall whether in this
16 instance you felt since you had an alterca--- we
17 have an alleged altercation --

18 A I -- I --

19 Q Would you have felt -- is this an
20 instance when you would have filled out an
21 incident report?

22 A I'm not sure because I -- I can't
23 remember the actual incident. I -- I -- that's
24 why I say vaguely. Because I know he was brought
25 to my office for something that happened in the

1 Q How -- how do you -- do you apply for
2 the course?

3 A My supervisor -- well, if you -- if you
4 -- if you going to the -- in the school, then you
5 have to take that course to become certified as a
6 school resource officer because you need to know
7 what -- what rules applies to law enforcement,
8 what rules applies to the schools that you're
9 going in. Again, you're -- you're there to
10 enforce the law, not policies and procedures. And
11 -- and it teaches you to not mix the two where,
12 you know, a officer can get in to the point of
13 trying to administer or how -- tell the principal
14 how they need to handle a student by suspending
15 them or writing them up and so forth, where that's
16 not an officer's job. The officer's job if
17 there's -- if there's a crime committed, as an
18 assault, drugs, guns, breaking and entering,
19 anything of that nature where there's a crime,
20 that's when the officer steps in do his or her
21 job.

22 Q How long -- do you recall how long that
23 course was?

24 A A week.

25 Q Do you recall what the contents of the

1 mistaken. 'Cause I just got back good and I don't
2 think -- I think what they was trying to do, they
3 was actually trying to put two officers at that
4 school because we had a -- we had that large mass
5 of students. And -- and at that time I want to
6 say it was either me and Jennifer or either me and
7 Quick -- Mike Quick.

8 Q Mike Quick. What did you say
9 Jennifer's last name was?

10 A Floyd. Well, she -- she's -- I knew
11 her by Jennifer Floyd, but her last name is Lee.
12 Jennifer Lee.

13 Q What -- what's your current role at
14 South Carolina State?

15 A I'm the captain over patrol and
16 administration.

17 Q Are you currently this semester you're
18 enrolled in classes at Grand --

19 A No, sir.

20 Q What is your knowledge regarding the
21 complaint that my -- my client Hannan Secka, who
22 is [REDACTED]'s mother, filed against you?

23 A From what I read in the -- in the
24 paperwork was a lie. I mean, honestly speaking,
25 'cause nobody had to restrain me or I would

1 definitely not out there bullying nobody's child.
2 I got three kids of my own. I don't want nobody
3 mistreating my -- I don't want nobody mistreating
4 my kids regardless of what I wear, gun or badge.
5 I -- I treat kids -- I try my best to treat kids
6 with respect regardless of that fact that even
7 though I may be the oldest, but they -- they still
8 deserve respect. I -- again, as far as her son,
9 like I say, I -- I vaguely remember him. I just
10 -- that's -- that's probably the only encounter
11 ever is when they brought him to my office period.
12 I -- again, if she walks in here right now, I
13 couldn't tell you who she is. So I -- I don't --
14 and I don't understand or I don't know how she
15 obtained the information of saying that I bullied
16 her child or I -- I had to be restrained from
17 attacking her child. I -- I don't understand
18 where she got that from, so...

19 Q Did you have any conversations with --
20 strike. Who -- so Vince Hannah was your immediate
21 supervisor --

22 A Yes, sir.

23 Q Who was the captain at the time?

24 A John Crouse.

25 Q John Crouse. Do you recall having any

Florence County Sheriff's Office
Fiscal Year 2018 - 2019

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

MEMORANDUM OF AGREEMENT

This agreement is made between Florence School District One (hereinafter referred to as the District) and Florence County and the Florence County Sheriff's Office (hereinafter jointly identified as the Sheriff's Office) for the 2018-2019 school year.

I. Rights and Duties of the Sheriff's Office

- A. The Sheriff's Office shall assign a specifically selected and trained Deputy Sheriff to the Schools listed below. Using funds received from the State, the District will reimburse the Sheriff's Office \$363,156 dollars for the services of 6 officers in District One schools. Invoices for payment will be sent out quarterly. The following schools are included in this agreement:

Sneed	\$60,179
WFHS	\$60,179
SFHS	\$60,179
Wilson	\$60,179
Roving	\$62,261
Alfred Rush	\$60,179

- B. The SRO officers will be supervised by the Sheriff's Office during the school year and periodic announced and unannounced visits will be made to each school.
- C. The Sheriff's Office will maintain statistical data on the assigned schools and a report will be provided to the School District Superintendent upon request.
- D. The Sheriff's Office will evaluate the school assignment each year.
- E. The Florence County Sheriff's Office will assist in training school staff on the Florence County Sheriff's Office response to active shooter/intruder and emergency situations.

II. Regular Duty Hours of School Resource Officers

- A. Each School Resource Officer (hereinafter referred to as SRO) shall be assigned to a school during the school year for eight and one half (8.5) hours per day. When the SRO is responsible for more than one school, the SRO will divide his/her time equitably between each of the assigned schools. The Sheriff's Office may temporarily reassign any SRO during school holidays and vacations, or in the event of a law enforcement emergency.

III. Duties of the School Resource Officer

A. Duties of the School Resource Officer

1. Law Enforcement Officer. First and foremost, the SRO(s) will perform law enforcement duties in the school such as handling assaults, theft, burglary, bomb threats, weapons and drug incidents. Officers will participate in school activities (i.e., school clubs, parent-teacher organizations, school athletic teams, field trips, and community outreach programs) and provide a visible and positive image.

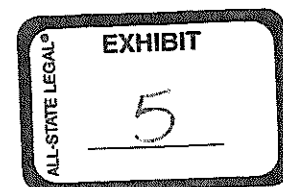
WKB (Initial):

[Handwritten Signature]

District (Initial):

[Handwritten Initials]

Page 1



Florence County Sheriff's Office
Fiscal Year 2018 - 2019

They will work to protect the school environment and maintain an atmosphere where teachers feel safe to teach and students feel safe to learn.

2. **Law Related Counselor.** The SRO(s) will serve as a source of counseling for students on law related subjects. Maintaining an open-door policy with the students enables them to interact freely with the SRO. The SRO(s) will bring an expertise into the schools that will help students make more positive choices in their lives. The officers will also refer students to various community services and/or service agencies if additional assistance is needed. A SRO will not actively participate in student counseling or referrals until properly trained to do so.
3. **Law Related Education Teacher.** The SRO(s) will teach law related topics to students and will be able to give a unique perspective based on the officer's training and experience. There are a variety of topics that the SRO can choose to teach depending on the grade level of the students. The goal of law related education is to teach students to be successful citizens. The SRO will explain the role of law enforcement in society.

B. Additional Duties of School Resource Officers

1. To remain on school grounds of those assigned schools from opening to closing times. (Exceptions: during the times the SRO needs to perform departmental administrative functions, i.e., training, court, etc.)
2. To help prevent juvenile delinquency through close contact with students, school personnel, and parents.
3. To establish liaison with the school principal, faculty, students and parents.
4. To establish and maintain liaison with school security staff.
5. To inform the students of their rights and responsibilities as lawful citizens.
6. To assist the principal, school officials and District security by initiating an investigation of violations of criminal laws occurring in the school or on school property. SRO(s) will investigate reported crimes and complete the appropriate documentation which will include the school incident report that will be forwarded to the SC State Attorney General's Office. Officers may arrest, detain and transport a person when authorized by State and Federal law and departmental policy.
7. To assist the administration and faculty in formulating criminal justice programs.
8. To formulate crime prevention programs to education and reduce the opportunity for the commission of crimes against persons and property in the school.
9. To be available for the parent-teacher organization meetings and participate in PTO problems.
10. To provide services for neighborhood merchants and residents in school related problems.

WKB (Initial):



Page 2

District (Initial):



Florence County Sheriff's Office
Fiscal Year 2018-2019

11. To be aware of the responsibilities to improve the image of the uniformed law enforcement officers in the eyes of the community.
12. To notify the principal or principal's designee, as soon as possible and practical, of any police action that occurs on the school campus.
13. To assist other law enforcement agencies, as well as patrol officers, regarding law enforcement matters.
14. The SRO shall maintain detailed and accurate records of the SRO program and shall forward them to the SRO supervisor.
15. The SRO shall not act as a school disciplinarian, as disciplining students is a school responsibility. However, if the incident is a violation of the law, the principal shall contact the SRO or their supervisor in a timely manner and the SRO shall then determine whether law enforcement action is appropriate. SRO(s) are not to be used for regularly assigned lunchroom duties, hall monitors, or other monitoring duties. If there is a problem, the SRO shall assist the school until the problem is solved.
16. To be a visible presence during the arrival and dismissal of students.
17. To provide assistance in directing traffic during drop-off and pick-up when necessary.
18. To conduct a daily drive/walk around the perimeter of school - inspect/check parking lots.
19. To be present when possible at lunchtime with students. SRO(s) will not leave the campus for lunch.
20. To be a visible presence during recess and class change.
21. Teach safety, drug awareness, gang awareness and law-related education classes. Principal or designee to assist in obtaining classroom time for these classes.
22. Officers are encouraged to participate as a student mentor, sponsor/advisor and in athletic programs, or programs available at his/her school.
23. Officers will participate in PTO and SIC presentations/meetings.
24. Officers will participate in school administrative team meetings.
25. Officers to serve as a security/safety advisor to the principal and to submit all safety concerns in writing to the principal.
26. SRO is encouraged to establish a presence on a District Security Committee, if applicable.
27. SRO will take holidays corresponding to school holidays.
28. SRO will not leave school campus without prior approval of SRO Sergeant, SRO Lieutenant, or Captain of Special Operations. After approval, the principal or designee will be advised and estimated time of absence and return. SRO will

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District (Initial): *JL*

Page 3

not schedule court, training, administrative duty or any activity that will take the SRO from the campus during school hours. SRO will make all efforts to be on campus when school is in session.

Florence County Sheriff's Office
Fiscal Year 2018-2019

29. A monthly Crime Incident Summary will be submitted to the principal, if requested.
30. The chain of command for any issues, problems, complaints, etc. for the SRO is Sergeant (if applicable), Lieutenant, Divisional Captain, Chief Deputy, and Sheriff.
31. Any reported crime (i.e., larceny, assault, disturbing school, etc.) or knowledge of a suspected crime is to be reported to the SRO immediately.
32. The SRO is responsible for the criminal investigation of crimes.
33. The SRO will determine if criminal charges will be made on all crimes. The SRO will consult with his/her supervisor(s) and/or the Solicitor's Office if necessary.
34. The SRO will notify the principal or a designee if the principal is not available, of an arrest or criminal incident that the SRO is investigating as soon as possible.
35. Any complaint on an SRO by a school employee, student, or parent will be forwarded to the SRO supervisor, who will have the complaint investigated by the Sheriff's Office. The principal will be informed of the result of the investigation.
36. The principal, SRO and SRO supervisor will meet at the beginning of the school year to discuss the responsibilities and procedures of the SRO and District employees.

After winter break, another meeting will be conducted to discuss the progress of the SRO and district employees in meeting the responsibilities and procedures.

IV. School Functions and Extracurricular Activities

- A. Upon the request of the principal or his/her designee, a SRO may accompany their schools to events outside of the county for the purpose of security. The payment for the SRO will be based on an hourly rate determined by the Sheriff's Office policy, and in effect upon execution of this agreement, and the payment will be provided by the school requesting the SRO's services. In the event the SRO does accompany his/her school to an event outside of the county, the SRO will have jurisdiction to arrest persons committing crimes in connection with a school activity or a school-sponsored event, pursuant to Section 5-7-12 of the South Carolina Code of Laws.
- B. Any events that are of a school related nature (including but not limited to carnivals, proms, overnight trips, dances, drama, etc.), where a SRO is requested for the purpose of security, the SRO shall be paid on an hourly rate, by the school or the sponsoring group, based on current Sheriff's Office guidelines.

V. Program Goals and Evaluation

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District (Initial): *DS*

Page 4

- A. The Sheriff's Office, in conjunction with the District, will develop program goals and objectives for the SRO program. These programs and goals shall be in line with the District's plan for a safe school climate. This means that the SRO will be an active law enforcement official on campus, a classroom instructor, and a resource for teachers, students and parents. The SRO will also be active in conference, counseling and referrals. Indicators or success will be developed independently and objectively to measure how well goals were obtained.
- B. Upon request, the Sheriff's Office shall evaluate the effectiveness of the SRO program and report

Florence County Sheriff's Office
Fiscal Year 2018-2019

annually to the District no later than July 30th of each year.

VI. Rights and Duties of the District

A. The district will provide to the full-time SRO of each school the following materials and facilities which are deemed necessary to the performance of the SRO(s) duties.

1. Access to a private office. This office will contain a telephone, which may be used for general business functions.
2. A location for files and records which can be properly locked and secured within the office.
3. A desk with drawers, an office chair, work table, filing cabinet, office supplies, and a computer.

VII. Employment Status of the School Resource Officers

A. SRO(s) will remain an employee of the Sheriff's Office and shall not be employees of the District. The District and the Sheriff's Office acknowledge that the SRO(s) are the Sheriff's Office officers who shall uphold the law under the direct supervision and control of the Sheriff's Office. SRO(s) shall remain responsible to the chain of command of the Sheriff's Office.

VIII. Appointment of School Resource Officers

A. The Sheriff's Office shall be responsible for recruiting, interviewing, and evaluating SRO(s). The Sheriff's Office will assign selected and trained police officers from within the department to work as SRO(s).

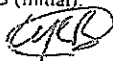
IX. Reassignment/Resignation/Dismissal of School Resource Officers

A. In the event the principal feels that the particular SRO is ineffective in performing his/her duties, the principal will state these reasons to the superintendent or the superintendent's designee who will notify the Sheriff or his/her designee. The District and the Sheriff's Office may meet to mediate or resolve any problems. If the problems cannot be resolved, the SRO shall be reassigned and a replacement SRO named.

X. Good Faith

A. The District, the Sheriff's Office, their agents and employees agree to cooperate in good faith in fulfilling the terms of this Agreement. Reimbursement for the SRO positions is contingent upon future funding from the Office of the Governor for the State of South Carolina or some alternate source of funding. Negotiations between the District Superintendent or his/her designee and the Sheriff or his/her designee will resolve unforeseen difficulties or questions. The terms of the Agreement are subject to change no later than May 31st of the calendar year. Any recommended changes or modifications will be reviewed by the Sheriff and the District superintendent or their designees, and any recommendations to the Agreement will be submitted in writing.

WKB (Initial):



District (Initial): D S

Page 5

XI. Mutual Agreement

This document constitutes the full understanding of the parties, and no terms, conditions, understanding or agreements purporting to modify or vary the terms of this document shall be binding unless hereafter made in writing and signed by all parties involved.

Services will commence on the first day of teacher in-service of the new school year and will continue through the last day of school. This Agreement shall start during the 2018-2019 school year and continue through the end of that year. The Sheriff's Office agrees that it will indemnify and hold

Florence County Sheriff's Office
Fiscal Year 2018-2019

harmless the District, its servants, agents and employees, from any and all liability, damage, expense, causes of action, suits, or claims arising from injury to person(s) or personal property or otherwise which arises out of the act, failure to act, or negligence of the Sheriff's Office, its agents and employees, in connection with or arising out of the activity which is the subject of this Agreement.

This Agreement is to be governed by the laws of the State of South Carolina.

XII. Merger

This Agreement constitutes the final written expression of all the terms of this Agreement to be signed by their duly authorized officers.

FLORENCE SCHOOL DISTRICT ONE

By: Dr. Dan Strickland Date: 7/14/18
Dr. Dan Strickland, Interim Superintendent

FLORENCE COUNTY SHERIFFS OFFICE

By: William Kenney Boone Date: 7-16-18
William Kenney Boone, Sheriff

FLORENCE COUNTY ADMINISTRATOR

By: K. G. "Rusty" Smith, Jr. Date: 7-18-18
K. G. "Rusty" Smith, Jr., County Administrator

WKB (Initial):

WKB

District (Initial): DS

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE TWELTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	
Hannah J. Secka, individually and	)	CASE NO: 2021-CP-21-02121
as parent and guardian for the minor M.Y.S.,	)	
	)	
Plaintiff,	)	
vs.	)	Defendant FCSD's Memorandum in
	)	Support of Summary Judgment
Florence County School District One and	)	
Florence County Sheriff's Department,	)	
	)	
Defendants.	)	
_____	)	

Introduction

Defendant Florence County Sheriff's Department ("FCSD"), by and through the undersigned legal counsel, does hereby file the instant memorandum in support of its contemporaneously filed motion for summary judgment. In particular, the FCSD asserts that summary judgment in its favor should be granted, because there are no genuine issues of material fact for trial. FCSD also asserts that it is entitled to judgment in its favor as a matter of law.

Relevant Factual Background

Plaintiff M.Y.S. ("M.Y.S.") was a prior student within Defendant Florence School District One ("School District"). Prior to the encounter at issue in this suit, M.Y.S. had amassed numerous disciplinary citations and reprimands (Ex. 2 – Discipline Records). For example, at Sneed Middle School, M.Y.S. was suspended for: taking another student's property then refusing to return it on September 8, 2017; hitting a teacher who took his phone on September 27, 2017; "pants-ing"¹

¹ "Pants-ing" is the act of pulling down a person's trousers and sometimes underpants, usually against their wishes, and typically as a practical joke or a form of bullying, but in other instances as a sexual fetish. <https://en.wikipedia.org/wiki/Pantsing>

another student on September 28, 2017; cursing at a teacher on October 19, 2017; punching another student in the face on December 13, 2017; fighting on February 6, 2018; pushing another student on February 21, 2018; and cursing at another teacher on March 13, 2018. (Ex. 2 – Discipline Records). Upon arriving at West Florence High School, M.Y.S. was also disciplined for cheating on September 7, 2018, and for refusing to put his phone away when asked on October 7, 2019. (Ex. 2 – Discipline Records).

Notably, M.Y.S. was also suspended from school for fighting on October 14, 2019. (Ex. 2 – Discipline Records). In regards thereto, that fight was recorded by other students. Some students showed administration the video of M.Y.S. fighting. (Ex. 1 – M.Y.S. Depo – p. 22-23). After seeing the video of students fighting on campus during school hours, school administration summoned M.Y.S. and the other student to the School Resource Officer (“SRO”) and Florence County Sheriff Deputy Jeblonski Green’s (“Deputy Green”) office (Ex. 1 – M.Y.S. Depo – p. 22-23). Deputy Green inquired as to the circumstances of the fight. Deputy Green first asked M.Y.S. about the fight and M.Y.S. denied being present. (Ex. 1 – M.Y.S. Depo – pp.70-71, 73-74). Officer Green then showed M.Y.S. the video and asked him if he was the one on video (Ex. 1 – M.Y.S. Depo. p. 74). M.Y.S. admitted that it was him on the video. (Ex. 1 – M.Y.S. Depo. p. 74). At some point during the questioning, Officer Green allegedly stood over M.Y.S. and asked if he wanted “a ride to Effingham.” (Ex. 1 – M.Y.S. Depo – p. 24-25). Deputy Green admittedly never “hit” M.Y.S., used any type of obscene language, bullied him, assaulted him, touched him in any harmful or offensive manner, threatened to hit him, and/or arrested him (Ex. 1 – M.Y.S. Depo. pp. 31-32, 38, 59-60). M.Y.S. simply did not like the manner in which he was “questioned” by Deputy Green (Ex. 1 – M.Y.S. Depo. pp. 36-37).

Thereafter, M.Y.S. returned to his regular schooling (Ex. 1 – M.Y.S. Depo – p. 24-25).

M.Y.S. was also never criminally charged for the fight. (Ex. 1 – M.Y.S. Depo p. 32-34). M.Y.S. similarly never had any formal court proceedings regarding his fight (Ex. 1 – M.Y.S. Depo p. 32-34). According to M.Y.S., he never had another encounter with Deputy Green. (Ex. 1 – M.Y.S. Depo p. 45).

According to Plaintiff Hannah J. Secka (“Ms. Secka”), she is the parent and Guardian of M.Y.S. However, she admittedly did not personally witness any incident involving Deputy Green, which are alleged to be unlawful and/or at issue in this lawsuit (Ex. 3 – Secka Depo. pp. 17, 22). Similarly, Ms. Secka admits that M.Y.S. was never transported to the local detention center and/or formally charged for the fight at issue (Ex. 3 – Secka Depo. pp. 21-22). Ms. Secka was also admittedly unaware of what training Deputy Green had received, who he received that training from, and/or what factors were considered by the FCSD prior to Deputy Green’s hiring (Ex. 3 – Secka Depo. pp. 53-54). Ms. Secka also admittedly never reviewed Deputy Green’s personnel file and/or what was contained therein (Ex. 3 – Secka Depo. pp. 59-60). Ms. Secka also did not recall any specific dates in which M.Y.S. was ever intimidated or harassed by anyone at the FCSD (Ex. 3 – Secka Depo. p. 68). Ms. Secka admits that she believed the alleged actions of Deputy Green were illegal, criminal in nature, and should have been criminally prosecuted (Ex. 3 – Secka Depo. pp. 80-81, 89). Ms. Secka also admits to never having reviewed any memorandum of understanding between the FCSD and the School District, nor its contents (Ex. 3 – Secka Depo. pp. 81-82).

According to Plaintiff M.Y.S. (“M.Y.S.”),² Jeblonski Green questioned him following the fight (Ex. 1 – M.Y.S. Depo. pp. 24-25). Deputy Green was allegedly “like threatening” and saying

² At the time of commencement of this legal action, M.Y.S. was allegedly a minor child. However, M.Y.S. is now over the age of eighteen (18) years (Ex. 1 – M.Y.S. Depo. p. 6). However, M.Y.S.’s name remains abbreviated herein.

he could “go for a ride to Effingham” (Ex. 1 – M.Y.S. Depo. pp. 24-25). M.Y.S. was asked a “slick” question and he provided a “slick” remark (Ex. 1 – M.Y.S. Depo. pp. 24-25). M.Y.S. felt disrespected (Ex. 1 – M.Y.S. Depo. pp. 28-29). However, Deputy Green admittedly never “hit” M.Y.S., used any type of obscene language, bullied him, assaulted him, touched him in any harmful or offensive manner, threatened to hit him, and/or arrested him (Ex. 1 – M.Y.S. Depo. pp. 31-32, 38, 59-60). M.Y.S. simply did not like the manner in which he was “questioned” by Deputy Green (Ex. 1 – M.Y.S. Depo. pp. 36-37). In particular, M.Y.S. felt that his “unwanted comments were unnecessary (Ex. 1 – M.Y.S. Depo. p.41). Deputy Green admittedly did not do anything else “wrong” and his “manner” of questioning is the sole basis for M.Y.S.’ claims against the FCSD (Ex. 1 – M.Y.S. Depo. pp. 36-37). M.Y.S.’s only discussions with Deputy Green were immediately following the school fight (Ex. 1 – M.Y.S. Depo. p. 45). By his own admission, M.Y.S. did not know what the FCSD had done “wrong” to him (Ex. 1 – M.Y.S. Depo. p. 49). M.Y.S. also admittedly did not know the type of training Deputy Green had received and/or the contents of his personnel file (Ex. 1 – M.Y.S. Depo. pp. 50-51). Deputy Green did not allegedly wrong or harm M.Y.S. in any other manner whatsoever (Ex. 1 – M.Y.S. Depo. p. 52).

According to Deputy Green, he was employed by the FCSD as a Deputy Sheriff and assigned to serve as the School Resource Officer at West Florence High School from in or about 2013 until 2020 (Ex. 4 – Green Aff. ¶ 2). Deputy Green was assigned the position of School Resource Officer (“SRO”) by the FCSD, pursuant to a Memorandum of Agreement between the Defendants (Ex. 4 – Green Aff. ¶ 4; Ex. 5 – Memo of Agreement; Ex. 6 – O’Malley Depo. pp. 48-52). That memorandum of understanding detailed the rights and responsibilities of the Defendants relative to school resource officers (Ex. 4 – Green Aff. ¶ 5; Ex. 5 – Memo of Agreement; Ex. 6 – O’Malley Depo. pp. 48-52). Deputy Green’s job as a SRO was to enforce the law, not the policies,

procedures, rules or regulations of the school district (Ex. 4 – Green Aff. ¶ 6; Ex. 7 – Green Depo. p. 25). Deputy Green also vehemently denies having to be physically restrained from ever “attacking” M.Y.S., although he may have questioned M.Y.S. relative to the fight (Ex. 4 – Green Aff. ¶s 7, 8; Ex. 7 – Green Depo. pp. 29, 31-32, 39-40). At all times, Deputy Green was adequately and properly trained as a SRO, and had received both the necessary training and certification in which to do so (Ex. 4 – Green Aff. ¶ 10; Ex. 7 – Green Depo. pp. 25, 35).

Defendant Florence School District One Superintendent Dr. Richard O’Malley (“Dr. O’Malley”) testified that he would have no reason to believe that Deputy Green was ever an employee of the school district (Ex. 6 – O’Malley Dep. p. 48). Likewise, at all relevant times hereto, there was a Memorandum of Agreement between the Defendants (Ex. 4 – Green Aff. ¶ 4; Memo of Agreement; Ex. 6 – O’Malley Depo. p. 48-52). That memorandum of agreement detailed the rights and responsibilities of the Defendants relative to school resource officers (Ex. 4 – Green Aff. ¶ 5; Ex. 5 – Memo of Agreement; Ex. 6 – O’Malley Depo. pp. 48-52). It was also Dr. O’Malley’s belief that SRO’s would always remain employees of the FCSD and not that of the school district (Ex. 6 – O’Malley Dep. p. 51).

According to M.Y.S.’s Student Shadow³ Daisy Johnson (“Ms. Johnson”), she too did not ever personally witness M.Y.S. ever report any alleged instances of bullying to any teachers or school district administration (Ex. 8 – April 10-11, 2019 Due Process Hearing p. 46). Ms. Johnson also never reported any concerns that M.Y.S. was ever being harassed or bullied (Ex. 8 – April 10-11, 2019 Due Process Hearing p. 49). Ms. Johnson undeniably did not ever witness any school

³ A “Shadow” is an individual who helps children with disabilities like autism spectrum disorder (ASD), Specific Learning Disability, ADHD, behavioral issues, etc. on a one-to-one basis. They provide assistance to children with disabilities during mainstream schooling. <https://teachertrainingmumbai.com/blog/shadow-teacher-qualifications/#sen-details>

official physically assault M.Y.S., as alleged (Ex. 8 – April 10-11, 2019 Due Process Hearing p. 55).

On September 29, 2021, Plaintiffs filed suit against the Sheriff's Department and Florence School District One (Complaint). As alleged, Plaintiffs claimed that Defendants FCSD and the School District were grossly negligent in multiple particulars (Complaint). Defendants deny all such allegations. The FCSD has now filed a motion for summary judgment on the Plaintiffs' claims. The instant memorandum is submitted in support thereof.

Applicable Legal Standard

Under Rule 56, SCRCP, a party is entitled to a judgment as a matter of law if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact. "Summary judgment is appropriate when it is clear there is no genuine issue of material fact and the conclusions and inferences to be drawn from the facts are undisputed." McClanahan v. Richland County Council, 350 S.C. 433, 437, 567 S.E.2d 240, 242 (2002). A party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. Baughman v. American Tel. and Tel. Co., 306 S.C. 101, 410 S.E.2d 537 (1991). With respect to an issue upon which the nonmoving party has the burden of proof, this initial responsibility may be discharged by pointing out to the trial court that there is an absence of evidence to support the nonmoving party's case. *Id.* (citing Celotex Corp. v. Catrett, 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986)). Once the moving party carries its initial burden, the opposing party must, under Rule 56(e), do more than simply show that there is some metaphysical doubt as to the material facts but must come forward with specific facts showing that there is a genuine issue for trial. *Id.* (quoting Matsushita Elec. Indus.

Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87, 106 S. Ct. 1348, 1356, 89 L. Ed. 2d 538 (1986)) (emphasis in original). The party opposing summary judgment cannot simply rest on mere allegations or denials contained in the pleadings. Id.; George v. Empire Fire & Marine Ins. Co., 344 S.C. 582, 545 S.E.2d 500 (2001).

In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the nonmoving party. Vermeer Carolina's, Inc. v. Wood/Chuck Chipper Corp., 336 S.C. 53, 518 S.E.2d 301 (Ct. App. 1999). If triable issues exist, those issues should be submitted to the jury. Young v. S.C. Dept. of Corrections, 333 S.C. 714, 718, 511 S.E.2d 413, 415 (Ct. App. 1999). However, when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. Pye v. Aycock, 325 S.C. 426, 480 S.E.2d 455 (Ct. App. 1997).

Analysis

I. *Plaintiffs have Failed to Effect Proper Service of the Summons and Complaint Upon the FCSD.*

Initially, the instant case should be dismissed, because the Plaintiff has failed to effect proper service of the Summons and Complaint upon the FCSD. No genuine issue of material fact exists in this regard. For this reason, FCSD's motion for summary judgment should be granted.

Notably, Rule 12(b), SCRCP, provides, in pertinent part:

Every defense . . . to a cause of action in any pleading . . . shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: . . . (5) insufficiency of service of process. . . A motion making any of these defenses shall be made before pleading if a further pleading is permitted.

Rule 12(b), SCRCP.

Rule 12(h)(1), SCRCP, also provides that the defense of insufficiency of service of process is waived “if it is neither made by motion under this rule nor included in a responsive pleading or an amendment thereof permitted by Rule 15(a) to be made as a matter of course.” Rule 12(h)(1) SCRCP (emphasis added).

In this case, the FCSD clearly raised the defense of failure to effect proper service process in its Answer (Answer ¶ 5). Specifically, FCSD clearly and timely alleged in their Answer that:

5. The Plaintiff failed to effect proper service of process upon the Defendant. This action is therefore subject to dismissal pursuant to Rule 12(b)(5), S.C.R.C.P. as to the Defendant. As well, the Plaintiff’s failure to effect proper service of process deprives this Honorable Court of personal jurisdiction over the Defendant.

(Answer ¶ 5).

No genuine issue of material fact exists in this regard.

Rule 4(d)(5) of the South Carolina Rules of Civil Procedure further governs the service of process upon a state officer or a state agency, such as the Florence County Sheriff’s Department.

Rule 4(d)(5), SCRCP. Rule 4(d)(5), SCRCP, in mandatory language, provides that:

Service shall be made ... [u]pon an officer or agency of the State by delivering a copy of the summons and complaint to such officer or agency and by sending a copy of the summons and complaint by registered or certified mail to the Attorney General at Columbia. If the agency is a corporation the copy shall be delivered as provided in paragraph (3) of this subdivision of this rule.

Rule 4(d)(5), SCRCP.

Therefore, the plain language of this rule demonstrates that service on a state officer or agency is not effected until the officer or agency being sued is personally served (emphasis added). Rule 4(d)(5), SCRCP; Maybin v. Northside Correctional Center, 891 F.2d 72, 73-4 (4th Cir. 1989) (acknowledging that, as a state agency, service on the FCSD must be made pursuant to Rule 4(d)(5) of the South Carolina Rules of Civil Procedure). Accordingly, service pursuant Rule 4(d)(5),

SCRCF is not legally obtained on the FCSD until it is made upon a person of suitable position and discretion within the agency. *Id.* (holding that service upon a correctional center employee was not effective for serving the FCSD) (citing *Jensen v. Doe*, 292 S.C. 592, 358 S.E.2d 148 (S.C. Ct. App. 1987), cert. denied, 295 S.C. 69, 367 S.E.2d 162 (1988)). Significantly, the rules undeniably do not provide for service by certified mail upon a state agency (emphasis added). *See* S.C.R. Civ. P. 4(d)(8) (service by certified mail is only allowed upon individuals and corporations). No genuine issue of material fact exists in this regard. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is appropriate.

In this case, no Certificate of Service or Affidavit of Service has been filed. As such, it is entirely unclear from the record how/when service was attempted. No genuine issue of material fact exists in this regard. For this reason, the FCSD's motion for summary judgment should be granted.

II. FCSD Exempt From Liability Under The South Carolina Tort Claims Act.

Next, the FCSD is exempt from liability under the South Carolina Tort Claims Act ("SCTCA"). No genuine issue of material fact exists in this regard. For this reason, the FCSD's motion for summary judgment should also be granted.

A. The SCTA Protects Defendants from Liability Under § 15-78-60(25).

The South Carolina Tort Claims Act bars specifically provides a government entity is:

Not liable for a loss resulting from responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student, patient, prisoner, inmate, or client of any governmental entity, except when the responsibility or duty is exercised in a grossly negligent manner.

S.C. Code Ann. § 15-78-60(25).

In the instant case, Defendants followed their duties and responsibilities without any evidence of negligence – much less gross negligence. No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment should be granted.

In fact, Jeblonski Green questioned M.Y.S. following the fight (Ex. 1 – M.Y.S. Depo. pp. 24-25). Deputy Green was allegedly “like threatening” and saying he could “go for a ride to Effingham” (Ex. 1 – M.Y.S. Depo. pp. 24-25). M.Y.S. was asked a “slick” question and he provided a “slick” remark (Ex. 1 – M.Y.S. Depo. pp. 24-25). M.Y.S. felt disrespected (Ex. 1 – M.Y.S. Depo. pp. 28-29). However, Deputy Green admittedly never “hit” M.Y.S., used any type of obscene language, bullied him, assaulted him, touched him in any harmful or offensive manner, threatened to hit him, and/or arrested him (Ex. 1 – M.Y.S. Depo. pp. 31-32, 38, 59-60). M.Y.S. simply did not like the manner in which he was “questioned” by Deputy Green (Ex. 1 – M.Y.S. Depo. pp. 36-37).

In particular, M.Y.S. felt that Deputy Green’s “unwanted comments were unnecessary (M.Y.S. Depo. p.41). Deputy Green admittedly did not do anything else “wrong” and his “manner” of questioning is the sole basis for M.Y.S.’ claims against the FCSD (Ex. 1 – M.Y.S. Depo. pp. 36-37). M.Y.S.’s only discussions with Deputy Green were immediately following the school fight (Ex. 1 – M.Y.S. Depo. p. 45). By his own admission, M.Y.S. did not know what the FCSD had done “wrong” to him (Ex. 1 – M.Y.S. Depo. p. 49). M.Y.S. also admittedly did not know the type of training Deputy Green had received and/or the contents of his personnel file Ex. 1 – (M.Y.S. Depo. pp. 50-51). Deputy Green did not allegedly wrong or harm M.Y.S. in any other manner whatsoever (Ex. 1 – M.Y.S. Depo. p. 52).

Under the South Carolina Tort Claims Act, “a governmental entity [is] liable for their torts in the same manner and to the same extent as a private individual under like circumstances, subject

to limitations upon liability and damages.” S.C. Code Ann. § 15-78-40. These limitations of liability “must be liberally construed in favor of limiting the liability of the State.” S.C. Ann. § 15-78-20. A limitation relevant to this case is § 15-78-60(25) (stated above).

Here, FCSD and Deputy Green were reasonably following their duties of assisting in “investigation of violations of criminal laws occurring in the school or on school property” per FCSD’s agreement with Florence School District One. (Ex. 4 – Green Aff. ¶ 9; Ex. 5 – Memo of Agreement). Officer Green’s sole interaction with M.Y.S. was the questioning regarding Plaintiff’s fighting during schooltime. (Ex. 4 – Green Aff. ¶ 8; Ex. 1 – M.Y.S. Depo p.45). When questioning M.Y.S., Officer Green did not touch M.Y.S., nor did he make any threats to harm M.Y.S. (Ex. 1 – M.Y.S. Depo p. 30-32). Officer Green merely stood up during the questioning while M.Y.S. remained seated, and asked him if he would like “a ride to Effingham”. (Ex. 1 – M.Y.S. Depo p. 24-25, p. 60 ¶ 6-7). All the above actions were clearly reasonable given the circumstances at West Florence High School on October 14, 2019. Undeniably, no evidence of gross negligence exists, nor has any been proven. No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment should be granted.

B. Defendants are Immune Under S.C. Code Ann. § 15-78-60(4).

FCSD is also exempt from liability under S.C. Code Ann. § 15-78-60(4). No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment should also be granted.

Indeed, the Tort Claims Act provides a governmental entity is not liable for a loss resulting from “adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution,

rule, regulation, or written policies.” S.C. Code Ann. § 15-78-60(4).

Here, Plaintiffs presumably allege that the FCSD somehow failed to comply with the Safe Schools Act and follow Florence County School District’s code of conduct. (Complaint ¶ 23). These allegations are legally insufficient under S.C. Code Ann. § 15-78-60(4), since a governmental entity cannot be held liable for failure to enforce laws or written policies. No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment should be granted.

C. FCSD is not Liable for the Criminal Actions of Third Persons Under § 15-78-60(20).

The FCSD also cannot be held liable for the criminal actions of third persons. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

S.C. Code §15-78-60(20) clearly provides that a governmental entity, such as the FCSD, is not liable for a loss resulting from the act or omission of a person other than an employee including but not limited to the criminal acts of third persons. Despite such, Plaintiff alleges that FCSD is liable because of the criminal actions of third parties. Specifically, Plaintiff alleges M.Y.S. was assaulted by his fellow students during his time on the school football team and while at West Florence. (Complaint ¶ 24, Ex. 1 – M.Y.S. Depo. p. 89-92). No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment should be granted.

D. FCSD is not liable for conduct outside of the scope of its agent outside the scope of his official duties under § 15-78-60(17).

The FCSD is also not liable for conduct outside of the scope of its agent outside the scope of his official duties under § 15-78-60(17). No genuine issue of material fact exists in this regard. For this reason, the FCSD's motion for summary judgment should also be granted.

Here, Ms. Secka admits that she believed the alleged actions of Deputy Green were illegal, criminal in nature, and should have been criminally prosecuted (Ex. 3 – Secka Depo. pp. 80-81, 89). No genuine issue of material fact exists in this regard.

Therefore, as claimed, Deputy Green's alleged actions were outside the scope of his official duties. Accordingly, S.C. Code Ann. § 15-78-60(17) undeniably provides that the FCSD cannot be found liable for "employee conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude." S.C. Code Ann. § 15-78-60(17). No genuine issue of material fact exists in this regard. For this reason, the FCSD's motion for summary judgment should also be granted.

E. No Gross Negligence.

Again, there are no facts which would support a finding of gross negligence. No genuine issue of material fact exists in this regard. For this reason, the FCSD's motion for summary judgment should also be granted.

Gross negligence is defined as "the failure to exercise slight care." Steinke v. South Carolina Dep't of Labor, Licensing and Regulation, 336 S.C. 373, 395, 520 S.E.2d 142, 153 (1999). It has also been defined as "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." Id. Gross negligence "is a relative term, and means the absence of care that is necessary under the

circumstances.” Id.

In the case at hand, there is nothing rising to the level of gross negligence. Again, gross negligence is “failure to exercise slight care.” Steinke, 336 S.C. at 395. Clearly, Officer Green exhibited more than slight care by conducting his investigation in the presence of other staff and faculty, neither threatening nor inflicting harm to M.Y.S., and by limiting his contact with M.Y.S. only to the incident in question. (Ex. 1 – M.Y.S. Depo p.45). Deputy Green admittedly did not do anything else “wrong” and his “manner” of questioning is the sole basis for M.Y.S.’ claims against the FCSD (Ex. 1 – M.Y.S. Depo. pp. 36-37).

As well, FCSD had no reason to doubt its employment of Officer Green given this incident. In fact, both Ms. Secka and M.Y.S. were admittedly unaware of what training Deputy Green had received, who he received that training from, and/or what factors were considered by the FCSD prior to Deputy Green’s hiring (Ex. 3 – Secka Depo. pp. 53-54; Ex. 1 – M.Y.S. Depo. pp. 50-51). Ms. Secka has also admittedly never reviewed Deputy Green’s personnel file and/or what was contained therein (Ex. 3 – Secka Depo. pp. 59-60). To the contrary, Deputy Green was undeniably adequately and properly trained as a SRO, and had received both the necessary training and certification in which to do so (Ex. 4 – Green Aff. ¶ 10; Ex. 7 – Green Depo. pp. 25, 35). Therefore, FCSD’s hiring and/or retention of Officer Green undeniably cannot subject FCSD to any claim of gross negligence. No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment should also be granted.

F. The Statute of Limitations Bars Plaintiffs Claims.

The applicable statute of limitations also bars the Plaintiffs’ claims. No genuine issue of material fact exists in this regard. For this reason, the FCSD’s motion for summary judgment

should also be granted.

Section 15-78-110 of the Act provides a two-year statute of limitations for most actions; a three-year statute of limitations is available to a party who files a “verified claim.” S.C. Code Ann. § 15-78-80; Joubert v. South Carolina Dep’t of Soc. Servs., 341 S.C. 176, 534 S.E.2d 1 (S.C. Ct. App. 2000) (if Plaintiff files statutorily - defined claim within one year of loss or injury, statute of limitations is extended to three years). As the record contains no evidence that Plaintiff filed a verified claim, the general two-year statute of limitations is applicable.

Here, Plaintiffs’ Complaint was filed on September 29, 2021. (Complaint). Thus, any claims arising before September 29, 2019, are undeniably time-barred by Section 15-78-110. S.C. Code Ann. § 15-78-110. No genuine issue of material fact exists in this regard.

In fact, FCSD’s actual hiring of Officer Green would clearly fall outside the statute of limitations and the Plaintiffs would be barred from suing over this complaint. (Complaint ¶ 1, 23). Similarly, any alleged incidents on the football team which occurred in M.Y.S.’s Freshman year at West Florence also undeniably occurred more than two years before the Complaint was filed as well. (Ex. 1 – M.Y.S. Depo. p. 88-89; Complaint). No genuine issue of material fact exists in this regard.

In sum, any and all claims originating before September 29, 2019, should be dismissed as time-barred. S.C. Code Ann. § 15-78-110. No genuine issue of material fact exists in this regard. For this reason, the Defendant’s motion for summary judgment should also be granted.

G. FCSD is not liable for any alleged intentional infliction of emotional harm.

The FCSD also cannot be held liable for any alleged intentional infliction of emotional harm. No genuine issue of material fact exists in this regard. For this reason, FCSD’s motion for summary

judgment should also be granted.

Here, the South Carolina Tort Claims act expressly bars any claim for intentional infliction of emotional distress, since it is excluded from the definition of a “loss” under the Act. S.C. Code Ann. § 15-78-30(f). Specifically, S.C. Code Ann. § 15-78-30(f) expressly provides that a compensable loss under the SCTCA “does not include the intentional infliction of emotional harm.” S.C. Code Ann. § 15-78-30(f) (emphasis added); see also, Trask v. Beaufort County, 392 S.C. 560, 573, 709 S.E.2d 536, 542 (Ct. App. 2011) (“Under the Tort Claims Act, a [governmental entity] is immune from suit for the ‘intentional infliction of emotional harm’”); Ward v. City of N. Myrtle Beach, 457 F. Supp. 2d 625, 647 (D.S.C. 2006). Therefore, to the extent that Plaintiffs are seeking damage for the intentional infliction of emotional harm (See eg., Complaint ¶ 24), such damages are undeniably not recoverable under the SCTCA. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the Defendant is also appropriate.

III. FCSD is not Liable Under the Public Duty Rule.

The FCSD is also not liable to the Plaintiffs pursuant to the public duty rule. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

To recover for negligence, Plaintiffs must show: (1) a duty of care owed by the Defendant to the Plaintiff; (2) a breach of that duty by a negligent act or omission; and (3) damage proximately resulting from the breach. South Carolina Ins. Co. v. James C. Greene & Co., 290 S.C. 171, 348 S.E.2d 617 (Ct. App. 1986). The absence of any one of these elements renders the cause of action insufficient. South Carolina State Ports Authority v. Booz-Allen & Hamilton Inc., 289 S.C. 373, 346 S.E.2d 324 (1986). The existence of a duty owed is a question of law for the courts. Ballou v.

Sigma Nu General Fraternity, 291 S.C. 140, 352 S.E.2d 488 (Ct. App 1986).

Furthermore, under the “public duty rule,” public officials are generally not held liable to individuals for negligence in discharging public duties because the duty is owed to the public at large and not to any one individual. Wells v. City of Lynchburg, 331 S.C. 296, 501 S.E.2d 746 (Ct. App. 1998). “The public duty rule is a negative defense which denies an element of the [P]laintiff’s cause of action--the existence of a duty of care to the individual [P]laintiff. The burden is on the [P]laintiff to show a duty of care was owed to him.” Rayfield v. South Carolina Dep’t of Corrections, 297 S.C. 95, 106-07, 374 S.E.2d 910, 916 (Ct. App. 1988).

Importantly, our South Carolina Supreme Court has also held that police officers owe a duty of care to the public at large and not to any one individual. Specifically, in Wyatt v. Fowler, 326 S.C. 97, 484 S.E.2d 590 (1997), Wyatt sued the sheriff and his deputies in common-law negligence over events arising out of the serving of an arrest warrant. Fowler maintained that he could not be sued in negligence because any duty owed to Wyatt was in fact a duty owed to the public only. Our Supreme Court agreed and held that the police owe a duty to the public at large and not to any one person individually. Id. SROs are also police officers and owe a duty generally to society rather than to any one individual. Therefore, Deputy Green owed a duty not to M.Y.S., but to the public at large at West Florence. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

IV. Hannah Secka Lacks Standing to Bring Suit and Should be Dismissed From this Action.

To the extent that Ms. Secka is not the lawful guardian or parent of minor M.Y.S.,⁴ she

⁴ It is undisputed that M.Y.S. is now over the age of eighteen (18) years (Ex. 1 – M.Y.S. Depo. p. 6).

should also be dismissed from the case. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

Notably, the record contains no indication that Hannah Secka is the lawful parent or guardian of minor M.Y.S., other than Ms. Secka's own allegations. Likewise, M.Y.S. undeniably is over eighteen (18) years of age. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

V. Punitive Damages Are Not Available to the Plaintiffs.

Punitive damages are also not available to the Plaintiffs. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

Plaintiffs' Complaint seemingly seeks punitive damages from the Defendants. (Complaint ¶ 25). However, the SCTCA expressly states that "[n]o award for damages under this chapter shall include punitive or exemplary damages." S.C. Code Ann. § 15-78-120(b). Similarly, in MacMurphy v. S.C. Dep't of Highways and Public Transp., the South Carolina Supreme Court reaffirmed the general rule that "in the absence of statutory authority there is no right to recover exemplary or punitive damages against a municipal corporation... or state... [.] 295 S.C. 49, 51, 367 S.E.2d 150, 151 (1988). As a result, there is no statutory authority providing for the recovery of punitive damages from the State of South Carolina or its political subdivisions and agencies in this context on Plaintiffs' tort theories. Again, the Tort Claims Act explicitly states that, "[n]o award of damages under this chapter shall include punitive or exemplary damages...[.]" See S.C. Code Ann. § 15-78-120(b); Charleston Co. Sch. Dist. v. State Budget & Control Bd., 313 S.C. 1, 437 S.E.2d 6, 9 (1993). Consequently, the Plaintiffs undeniably may not recover punitive damages against the FCSD. No genuine issue of material fact exists in this regard. For this reason, summary

judgment in favor of the FCSD is also appropriate.

VI. Plaintiffs' alleged damages were not caused by the FCSD.

Plaintiffs' alleged damages were also not caused by the FCSD. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

In order for Plaintiffs' action to survive, the elements of a negligence action must be present. The elements for a cause of action for the tort of negligence are: (1) a duty owed to the plaintiff by the defendant, (2) a breach of that duty by the defendant, and (3) damages proximately resulting from the breach of duty. Bishop v. South Carolina Dep't of Mental Health, 331 S.C. 79, 502 S.E.2d 78 (1998). The requirement of damages has been further honed to provide: "(1) damages must bear some reasonable relation to plaintiff's actual loss, [...] and (2) damages may not be based on speculation." Carolina Winds Owners' Ass'n v. Joe Harden Builder, Inc., 297 S.C. 74, 79, 374 S.E.2d 897 (Ct. App. 1988). Regarding the Plaintiffs' current action, both prongs have fallen short.

Plaintiffs alleged mental and physical damages were not caused by the FCSD. Plaintiffs alleged damages are based solely on surmise and speculation. M.Y.S.'s only real issue with Officer Green was a feeling of being disrespected. (Ex. 1 – M.Y.S. Depo p. 29, 50). According to M.Y.S. himself, his main issue with Officer Green was his "ride to Effingham comment" (Ex. 1 – M.Y.S. Depo p. 29). M.Y.S.'s entire claim hinges on comments made by a Deputy Sheriff during the course of an active criminal investigation. (M.Y.S. Depo p. 32). The Plaintiffs suffered no wrong and/or harm. No genuine issue of material fact exists in this regard.

To the contrary, following M.Y.S.'s encounter with Deputy Green, there was no change in

the prescribed medicines he was taking. (Ex. 9 – M.Y.S. Medicals – Bates 165, 168). The medicines M.Y.S. took after the allegedly damaging event are the same medicines M.Y.S. needed to take before the allegedly damaging event (Ex. 9 – M.Y.S. Medicals – Bates 165, 168). M.Y.S.’s medicals also undeniably do not evidence any anxiety or depression following the event. In fact, they indicate the opposite. (Ex. 9 – M.Y.S. Medicals – Bates 175).

After October 14, 2019, M.Y.S. continually denied having anxiety and depression when his doctors asked about any such symptoms. (Ex. 9 – M.Y.S. Medicals – Bates 175). M.Y.S. denied depression and anxiety and was found to be well nourished and well developed on January 20, 2020. M.Y.S. also denied anxiety and depression on April 22, 2020. When asked about his mental state, M.Y.S. again denied depression and anxiety on October 23, 2020. M.Y.S.’s doctors reported him to raise no concerns of mood or depression on June 14th, 2021. (Ex. 9 – M.Y.S. Medicals – Bates 175, 183, 196). The only depression after M.Y.S. was investigated by Deputy Green was attributed to the death of his brother. (Ex. 9 – M.Y.S. Medicals – Bates 225, 226). The depression diagnosis makes no mention of Deputy Green or FCSD. No genuine issue of material fact exists in this regard.

In sum, M.Y.S. suffered no harm attributable to FCSD. The injuries alleged by Plaintiffs were not proximately caused by any actions of the FCSD. The emotional injuries claimed by Ms. Secka have also been explicitly denied by M.Y.S. in his communications with his doctor and his doctors have attributed any emotional distress to other causes such as family troubles. No genuine issue of material fact exists in this regard. For this reason, summary judgment in favor of the FCSD is also appropriate.

Conclusion

For the reasons stated herein, the FCSD respectfully requests that this Court grant its motion for summary judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, that the Plaintiffs' claims against them be dismissed in their entirety, that judgment in its favor be granted, and that the FCSD be awarded their attorney's fees and costs in the successful defense of this frivolous action.

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October 23, 2023
Florence, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE
IN THE COURT OF COMMON PLEAS
C.A. NO.: 2021-CP-21-2121

HANNAH J. SECKA,

PLAINTIFF,

vs.

FLORENCE COUNTY SCHOOL DISTRICT ONE,

DEFENDANT.

H E A R I N G
BEFORE THE HONORABLE MICHAEL G. NETTLES

DATE: FEBRUARY 20, 2024
LOCATION: SOUTH CAROLINA CIRCUIT COURT 12
TRANSCRIBED BY: KRISTEN PRIMM

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(NONE MARKED)

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

P R O C E E D I N G S

THE COURT: *Hannah J. Secka vs. Florence County School District One*. I'll be glad to hear from the moving party. You all take your time, get settled in, and when y'all are ready, I'll be glad to hear from the moving party.

MR. LYON: Your Honor, I'm David Lyon. I represent the Florence School District One in this case. This is my motion for summary judgment.

THE COURT: Okay.

MR. LYON: I have a binder copy of everything I filed if you would like to have that with you.

THE COURT: Yes. Yes, that would be good.

MR. LYON: May I approach?

THE COURT: Yes.

MR. LYON: Thanks. This is my motion and our exhibits.

THE COURT: That's a handsome brief there.

MR. LYON: So that's our memo in support of our motion, along with several exhibits. That's my courtesy copy. I've just gotten Plaintiff's opposition memo, which was filed as I was on the way up here, so I haven't really had an opportunity to review that.

Just want to note also that we have a scheduling order in place, Your Honor. I believe you signed that back in May of last year, and it says discovery is over. We've completed

1 discovery unless the parties agree otherwise. I don't know
2 that I'm going to agree to open discovery back up without
3 your direction to do so.

4 Our scheduling order also says that this case won't be
5 called to trial until 30 days after the motion is ruled on.
6 We think our motion should be granted in full for the reasons
7 I'm going to discuss today, but also, Your Honor, if it's not
8 granted in full, I think it can definitely be granted at
9 least in part, and I think that would help simplify the
10 issues in case we move to trial.

11 We can have an orderly and focused trial on this matter.
12 But again, I don't think that's necessary. I think we've got
13 a pretty good argument on summary judgment. I appreciate the
14 court's time and concern, giving this matter due
15 consideration.

16 This is a Tort Claim's Act case, Your Honor, a school
17 case. The question is, was the district grossly negligent in
18 some way that led to a compensable loss under the Tort Claims
19 Act to either of these Plaintiffs? Our plaintiffs are
20 Ms. Hannah Secka.

21 She is the mother of MYS, he's been called during this
22 litigation. Actually, he's no longer a minor. During the
23 course of this litigation, he turned 18, so he goes by Yasen.
24 He's graduated school, out of school, working full time at a
25 local grocery store, from what I understand.

1 At least he was at the time of this deposition back in
2 the fall. Nevertheless, throughout my memo, we continue to
3 use the MYS name so to keep things straight. So during all
4 times relevant to this action, MYS was a student at the
5 district, and unlike some of the cases that we've heard
6 earlier today, the issues raised in the complaint here are
7 not just one issue.

8 There are multiple, apparently, issues over the course
9 of some amount of time. I think it's 2017 to 2019. So MYS
10 had ADHD. Like a lot of kids with ADHD, he got in trouble.
11 Provided a discipline record for the student. He took other
12 people's property.

13 He got into fights. He put hands on students and
14 teachers. He cursed the teachers. He got busted for
15 cheating. You got those discipline records. He also had,
16 apparently, anxiety, depression, and narcolepsy. I gather
17 also he was born with cerebral palsy, though he also played
18 on the football team.

19 So Your Honor, if you have any of those conditions, you
20 get an IEP at the school. He had one. He also had ---

21 THE COURT: IEP?

22 MR. LYON: An IEP. I'm sorry. Individualized education
23 program, right? This is under the Individuals with
24 Disabilities Education Act, okay? So any student ---

25 THE COURT: Does that mean you have someone walk around

1 with you, or is it just a special program?

2 MR. LYON: That's a good question, Your Honor. In this
3 case, because the student had a behavioral intervention plan,
4 essentially something to keep his behavior in check, he did
5 have a shadow in this case. Her name is Daisy Johnson
6 (phonetic).

7 That is the person walking around, as you stated, and
8 she testified that she was there to make sure MYS didn't
9 disturb the class, and he would do the right thing. She also
10 has concerns that he might be doing drugs. But anyway, the
11 district gave MYS a lot of special education services here,
12 mostly intended to protect him from himself.

13 And when you get those special education services, you
14 get this whole extra layer of due process that allows you to
15 challenge lots of educational decisions, including
16 disciplinary decisions. And Ms. Secka was, let's say,
17 relentless in taking every opportunity to challenge decisions
18 by the schools.

19 There's a long history here with regard to Ms. Secka and
20 the school district under that IDEA due process situation.
21 She's also filed complaints with the Office of Civil Rights,
22 US Department of Education students' rights. She filed
23 complaints with the South Carolina Department of Education,
24 trying to take teachers' licenses away.

25 She filed ten requests for due process, which is under

1 the IDEA, and that's led to separate litigation with the
2 district, following her agreement to settle a case, alleging
3 that she abused the IDEA process. But she's now backed out
4 of that settlement, and currently owes the district over
5 \$9,000 for that because she refused to pay.

6 So that background is a little bit important to give you
7 a sense of where we are in this situation. We tried to
8 mediate this case. It did not mediate. And some of this
9 information has already been put forward in the proper area,
10 which is the IDEA due process OCR.

11 And we've gotten some information from OCR that suggests
12 some of what's been told to us now is not what was told to
13 OCR then. So let's get back to the specifics of this case.
14 Again, it's a number of little things that happened while MYS
15 was a student, first at Sneed Middle School and then later at
16 West Florence High School.

17 I think it's helpful to look at the allegations in two
18 categories, allegations about the actions of district
19 employees themselves, and then allegations regarding a, what
20 MYS described as a tussle in the locker room between him and
21 some of his teammates on the football team. So again, Tort
22 Claims Act, complaint's going to allege that the district is
23 responsible for all of these things, either because they were
24 grossly negligent in supervising students and staff, or the
25 other version of the allegation here is that the district was

1 negligent in hiring and retaining their staff who allegedly
2 did these bad things to MYS.

3 So I want to present to you today what happened in MYS's
4 own words, as opposed to what's contained in the complaint.
5 Like the last defense counsel up here, I'm relying solely --
6 mostly -- I think, solely, on the statements by MYS about
7 what happened that he alleged in his complaint. Usually, the
8 central question in these Tort Claims Act cases, especially
9 with the (indiscernible) school districts, is whether the
10 district was grossly negligent in allowing something to
11 happen.

12 Their gross negligence then allowed or resulted in
13 injury to, usually, a student. But here, Your Honor, I'd
14 like you to pay attention to the question of whether there's
15 actually a compensable loss, as defined by the Tort Claims
16 Act.

17 Loss means bodily injury, disease, death, or damage, et
18 cetera, but does not include the intentional infliction of
19 emotional distress. What we've got here in this case is a
20 lot of allegations of emotional distress. MYS's testimony
21 reveals a lot of interactions with staff that did little more
22 than offend him, make him mad, hurt his feelings, or hurt his
23 pride.

24 They try to paint that as emotional distress. I don't
25 think hurting pride, hurt feelings is emotional distress.

1 But even if it was, the Tort Claims Act explicitly doesn't
2 recognize claims for intentional infliction of emotional
3 distress, and negligent infliction of emotional distress is
4 really sort of the claim that results.

5 They're essentially saying, the district's negligence
6 led to the infliction of emotional distress. And our courts
7 have said that we don't really in South Carolina recognize a
8 negligent infliction of emotional distress claim unless it's
9 that bystander trauma case where, you know, God forbid a
10 mother watches something terrible happen to her son,
11 witnesses it.

12 And I'm blanking on the name of that case. *Canard*
13 (phonetic) was the name of that case. It's in my memo.
14 There's only one of the hodgepodge of incidents here that
15 resulted in physical injury, and that was the little tussle
16 in the locker room with his teammates, and the injuries, as
17 MYS described them, and as are included in two pictures
18 provided to us by the Plaintiffs at the end of my tab number
19 one, MYS described those as like a little welt or whatever
20 above his lip and little scrapes and little scratches on his
21 back.

22 These are injuries in only the most literal sense of the
23 word, but we're talking about extremely minor injuries. I
24 don't think I've ever been in court talking about a fat lip
25 and some scratches. In any event, he didn't remember going

1 to the doctor about these injuries, and there's no medical
2 indication that he did.

3 And Your Honor, we provided you the black and white.
4 I'll say the color is on the system. It's not much better.
5 It's not much clearer in terms of what was provided to us.
6 So please take a look at those in color in fairness to the
7 Plaintiffs. So here we are in summary judgment.

8 I want to go through the allegations and then what MYS
9 told us about those allegations, because that's the best
10 thing to do. And if you're following along in my memo here,
11 I'm going to be around pages -- so we're sort of starting on
12 pages probably around 12 through about 17.

13 So the first allegation I want to deal with is this
14 general allegation of bullying, harassment, and threats by
15 school district employees. Specifically mentioned were
16 Matthew Dowdell, Jeff Lee, Christopher Coleman, and Lisa
17 Doyle, who threatened, bullied, intimidated, and harassed the
18 student and minor child.

19 If we start -- basically, I just went down the list,
20 Your Honor. I said, MYS, tell me what this person did wrong
21 to you, and I've given you essentially what that statements
22 are and the opposition testimony as to that. So as to Matt
23 Dowdell, he basically said, it felt unfair to me because I
24 didn't get to enjoy my football high school experience.
25 Basically, Dowdell made some decisions about letting MYS

1 play.

2 He says, furthermore, (as read) I guess it was their way
3 of like making sure I didn't get hurt, which was, I'm
4 assuming, that that was why they were not letting him play.
5 So certainly if you open the courthouse door to students who
6 don't like that they've been sitting on the bench, you're
7 going to get flooded.

8 But even in this case, he recognizes that maybe they
9 were trying to do it for his own protection. So that's not a
10 loss, Your Honor, and that's not any sort of gross
11 negligence, in our view. I asked him, you know, what did
12 Coach Lee do to you?

13 And he said, (as read) basically, Coach Lee didn't do
14 anything after this tussle in the locker room. He said he
15 was gonna look into it, and according to MYS, he didn't, so,
16 and that -- he says, (as read) it just made me feel like
17 everyone was against me, basically. That's on 13 and 14.

18 I asked him, what did Mr. Coleman do to you? He
19 actually clarified. He said, (as read) I wouldn't say
20 threatened or bullied. But as far as harassed, yeah, I
21 would. I would definitely say harassed, because it will be
22 times where I would just be getting to school, like walking
23 through the metal detectors, and Mr. Coleman let everybody
24 else go through.

25 And as soon as he seen me, going through my extra bag,

1 like extra, extra hard, as if he's trying to look for
2 something. Like he's trying to have a reason to get me in
3 trouble, basically.

4 And I would feel very singled out because of that.
5 Again, not tortious, in our view, not tortious, not a loss,
6 not something that the courts should open their doors for.
7 What about Ms. Doyle? I asked him what Ms. Doyle did to him.
8 He said, (as read) well, I really didn't like her class.
9 Well, for one, she failed me one time, and I felt some type
10 of way about that, because I was actually doing her work.
11 Her work wasn't even that hard.

12 That's why I don't understand why she failed me. But I
13 lost a whole credit of that, and that actually set me back a
14 lot. Like I had to pull a trick out of my hat in my senior
15 year to graduate on time, but I didn't really like her. So
16 he also said that this teacher, he thought, compared him to a
17 character in a book called Wonder.

18 I don't know if you ever read it. It's about a student
19 with some facial deformities. I didn't see any facial
20 deformities on this student. I don't know what she was
21 talking about, but in any event, it's a statement. It's not
22 tortious.

23 There's no injury from it. We move on to another
24 allegation here. This is an allegation against Ms. Luhrs, an
25 employee, and I talk about this on page 12. An allegation is

1 that on or about May 29, 2018, Kathy Luhrs wrote on the
2 student and minor child, MYS, with a black chemical marker,
3 an obscene phrase without the student and minor child's,
4 MYS's, express consent and authorization.

5 So I asked MYS about what actually occurred. He said,
6 (as read) I can't remember what happened. That's, first, a
7 red flag. (As read) I just remember we all ended up like
8 piling by her desk, and she had a Sharpie. And basically,
9 everybody in the classroom was talking about tattoos.

10 She began to say something about she wanted a tattoo, or
11 something like that. And then she ended up doodling on a
12 piece of paper. And then she began to start writing on my
13 arm. She drew something else on somebody else's arm, but it
14 was kind of small on theirs.

15 It was like a little butterfly or something. And then
16 she drew a rose on the girl's hand. Then after that, she
17 wrote on my arm. She wrote, loyalty, on my left arm. Well,
18 loyalty, it wasn't even spelled right. I didn't really too
19 much appreciate that.

20 I didn't really try to conversate with her after that.
21 I just tried to wash it off. So Your Honor, I don't think
22 it's a good idea for teachers to be writing on students'
23 arms, but I also don't think it is a tort in this case. I
24 don't think it's a situation that involves a loss under the
25 Tort Claims Act.

1 I would also say there's been no evidence adduced that
2 Ms. Luhrs had any sort of prior issue with this, right,
3 hurting children, writing on children, or in any way
4 misbehaving toward children. And if you're going to try to
5 hold the school district liable for the actions of their
6 employee, you have to have some notice of that.

7 That's that *Moore* (phonetic) case, I believe, that I
8 cite in my memo. The school district being grossly
9 negligent, they have to have some prior notice of their
10 employees' predilections. All right.

11 So in our view, again, Your Honor, all of that is just
12 sort of usual complaints about folks at the school district,
13 none of it tortious, and none of it should be something that
14 goes to a trial in this case. Again, all that's based on
15 MYS's testimony.

16 There's been no evidence actually brought into this case
17 yet -- again, discovery's closed, as to what Ms. Luhrs
18 thought on this, or what Coach Coleman or Coach Lee. Those
19 people were not deposed in this case, Your Honor. So let's
20 go to the next and final incident, which is the attack in the
21 locker room.

22 This is asserted that on or about October 17, 2018,
23 student and minor child, MYS, was attacked by several
24 students in West Florence High School's athletic locker room,
25 resulting in physical injuries to his face and back. So what

1 did MYS say about this?

2 He said, (as read) well, I turned around. It's
3 basically like both of them right directly in my face. So
4 that's when one proceeded to just yank my girdle and snatch
5 it off. And I gather that's some aspect of the football
6 uniform.

7 Obviously, I did not play football, Your Honor. (As
8 read) And that's when we started like hustling and tussling
9 for a little minute. And then that's when Jay, one of the
10 students, had hit me, and then after he had hit me, that's
11 when it was just -- I was trying to defend myself from there
12 on, like I was just swinging, basically.

13 But they both ended up getting hits on me, though. But
14 it wasn't like no painful situation for me, like I'm going,
15 all right, I'm going to just do something about it, because,
16 like I had already basically did something about it in the
17 moment, if you want to get what I mean.

18 I've given you, I think, the full piece of this
19 testimony about what occurred in the locker room, and I'm
20 pointing you to those photos that were in our Exhibit 1 at
21 the end of MYS's deposition. Again, we sort of asked for the
22 original to those photos, but they were weren't provided, and
23 so we have what they have.

24 They're undated. I don't even know if they're
25 legitimate evidence in this case at this point, but in any

1 event, I can't see any injuries in the face. Obviously, he's
2 a brown-skinned man. A bruise is going to be harder to show
3 up, but it doesn't show anything to me.

4 There is some maybe dime-sized scratch on the student's
5 back, but again, I don't know that they came from that
6 incident because I can't verify the date of those photos. I
7 asked him if he went to the doctor after that, and he said
8 yes, and then he said, (as read) well, I believe so.

9 I went to Eastern Carolina Pediatrics. I can't remember
10 my doctor's name. And I said, all right, we have those
11 records, so if you went and saw him, it would be, what, the
12 day of, the day after; what do you think? He said, (as read)
13 well, I really don't know, to be honest.

14 I really don't know. And I'll represent to the court
15 I've not seen any medical records from that incident, and it
16 doesn't look like, just based on what I've seen and the
17 description, a little welt and some scratches, that it needed
18 anything other than some Neosporin and a Band-Aid.
19 Importantly, Your Honor, I asked him if there were any
20 witnesses to what had occurred in the locker room.

21 He said, (as read) no, it was too crowded in there to
22 see what occurred because there were students around.

23 So I will note also that this issue came up in the prior
24 special education litigation, if you will, the OCR complaint,
25 the IDEA due process hearings, and we have -- the OCR

1 investigator apparently asked him about this, and he didn't
2 remember that happening.

3 The OCR investigator asked Coach Lee about this. Coach
4 Lee said that -- let's see. What did Coach Lee say? This is
5 in that letter of findings of June 14, 2019, from the OCR.
6 In an interview with the OCR, the student confirmed that he
7 did not remember being assaulted by his teammates.
8 Additionally, OCR found MYS told Coach Lee he had not been
9 assaulted by his teammates, but that he got bumped
10 accidentally in the basketball gym before practice.

11 I also note there's a police report that Ms. Secka filed
12 four months after for reasons I'm not sure. Basically,
13 according to the police report, MYS told his mother that they
14 were rough housing around in the locker room after practice.
15 So we got at least four sort of statements in the record by
16 MYS.

17 And I've given you some case law that says -- I think
18 it's a Celotex case, out of the Fourth Circuit, *Barwick*, I
19 think it says. It says that you can't establish a genuine
20 issue of material fact based on a Plaintiff's multiple
21 different statements about the same incident.

22 So, yes, *Barwick*, 736, F.2d 946. So let's say it
23 happened. Let's say the incident happened. This is a
24 situation, again, where the district has to know that that
25 situation is out there and is a danger.

1 There's been no evidence to that effect adduced in this
2 case. That's necessary to establish the gross negligent
3 supervision. And we have another Tort Claims Act defense,
4 which is the one that says a public body, or school district,
5 in this case, cannot be liable for the criminal acts of third
6 parties.

7 And as I mentioned a minute ago, Ms. Secka did file a
8 police report, and she did tell us she believed that the acts
9 of those students in the locker room against her son were
10 criminal acts. So again, that's another defense for the
11 district here.

12 So Your Honor, in some, I think most, of these claims
13 just simply don't state a claim. Statements to a student by
14 teachers that the student doesn't like are not tortious.
15 They're not a Tort Claims Act loss. To the extent that
16 there's any compensable injury in this case, is that fat lip
17 and the scratches on his back, allegedly, again, as a result
18 of the tussle in the locker room.

19 But Plaintiffs haven't produced any other witnesses to
20 that incident. There's only the victim's testimony in the
21 record, and it conflicts with prior statements he's made, and
22 so there are no other fact witnesses to what occurred in
23 there.

24 And again, importantly, I think, MYS stated that no one
25 could have seen what occurred in the locker room because it

1 was too crowded. So even if it happened, our folks,
2 according to MYS, wouldn't have, couldn't have, seen it, much
3 less stopped it.

4 And again, generally, under the Tort Claims Act's gross
5 negligence standard, the Plaintiff has to prove more than
6 just the district should have or could have done more. They
7 have to prove gross negligence, which is a much higher
8 standard.

9 So for that reason, and for the reasons stated in my
10 memo, Your Honor, I'd ask for a complete summary judgment in
11 this case. I'd also ask that I would be given at least an
12 opportunity to respond to the motion opposition that was
13 filed today. I'll hand it over to Mr. Caldwell.

14 THE COURT: Mr. Caldwell, good to see you. Be glad to
15 hear from you.

16 MR. CALDWELL: May it please the court, Your Honor,
17 Darryl Caldwell, representing Hannah Secka and Moudou-yasen
18 Secka, in a cause of action against Florence County School
19 District One and the Florence County Sheriff's Department.
20 We have since settled with the Florence County Sheriff's
21 Department.

22 So now we only have a case remaining against Florence
23 County School District One. First, Your Honor, it is our
24 contention, we request that the court not grant summary
25 judgment motion. It's our position that we have put forth

1 enough evidence to supply the court's keen eye.

2 I think it's very important before I get started, Your
3 Honor, (indiscernible) with this list. Mr. Yasen, TBI,
4 traumatic brain injury, autism, ADHD, epilepsy, cerebral
5 palsy, and a whole sleep apnea, CPD, but with all of that, he
6 was still able to complete high school education.

7 My esteemed colleague put on the record that his mother
8 was a zealous advocate for ensuring her son received success
9 and her son was successful. Now, he didn't put it that way.
10 That's certainly defense counsel's job, and that's what they
11 did.

12 Your Honor, as it relates to the incidents involved, I
13 think it's important that we at least have some context on
14 some names. We talked about Matthew Dowdell. He's the
15 principal at the high school. We talked about Jeff Lee.

16 He was the varsity on JV, football coach. We talked
17 about Kathy Luhrs (phonetic). She was the eighth grade
18 algebra teacher. When we talked about Christopher Coleman,
19 he was the assistant principal. And then we have a school
20 district SRO at the time, Deputy (Indiscernible) Green.

21 He's no longer at the school. It's our position that
22 Defendant's motion should be denied. One other factor before
23 we move forward, at this junction, we have taken
24 approximately five depositions.

25 We have identified an expert, and a large portion of his

1 testimony has been presented in our memorandum in opposition.
2 He's Dr. Sterling Harris (phonetic). He's a retired 20-year
3 employee throughout the state of South Carolina, ending with
4 an assistant superintendent in curriculum, band teacher,
5 principal, assistant superintendent.

6 I asked the court when the court is rendering a decision
7 that we look at that the court decrees that an expert has
8 been identified. Now, the incidents that my esteemed
9 colleague discussed, he did testify correctly that Kathy
10 Luhrs, an eighth grade algebra teacher, wrote on my client's
11 arm a misspelled word.

12 And my client, in his testimony, said that he felt
13 weird. He felt strange because of what the teacher did. I
14 ask the court to look at our expert's testimony. Our
15 expert's testimony was clear when we asked him the question,
16 is it ever acceptable for a teacher to write on a student?
17 And his response was, absolutely not.

18 In the state of South Carolina, you are not authorized
19 for any reason whatsoever, and when we talk about gross
20 negligence, we ask the court to look at that testimony when
21 the court is rendering the decision. Additionally, we asked
22 our expert about this so-called small incident in the locker
23 room where my client testified that he was jumped by several
24 students.

25 Note what was missing from the discussion from Mr. Lyon.

1 There was no discussion about administrators, teachers,
2 volleyball coaches, anybody in the locker room but students.
3 And as an aside, when you talk about gross damages and
4 intentional, emotionally-inflicted stress, teenage football
5 players in a locker room without adult supervision, to me
6 that is the cornerstone of gross negligence.

7 But nonetheless, we ask the court to look at the
8 testimony from our expert that says, when you are at school,
9 you are responsible for those students, and those students
10 are not to be left without adequate supervision. In this
11 instance, there was not any.

12 Additionally, we have additional allegations of an
13 incident that occurred where Deputy Green interrogated my
14 client without the school being present, and the school did
15 not participate in the interrogation. It's our contention
16 that the MOU, which was provided, stated that although Deputy
17 Green was the SRO for school district, he still was under the
18 premise of the principal.

19 The school failed to protect my client in that he was
20 allowed to be badgered. He was allowed to be assaulted by
21 Deputy Green to the point where individuals -- it was so
22 loud. This was part of the record.

23 It was so loud that individuals have to come take Deputy
24 Green out of the room with my client. So it is our
25 contention that we have provided evidence that has supported

1 our case, based on the facts.

2 We have identified an expert witness, a former
3 superintendent, and incidentally, his testimony there was, we
4 have a student that's operating pursuant to IEP, which was
5 explained to the court earlier. We have a shadow, Ms. Daisy
6 Johnson, that follows him.

7 If the judge would review our memo, we have her
8 testimony where she responded, (as read) you should not be
9 here. You should not be talking to him. You need to contact
10 his parents. You need to contact the school.

11 So again, it's our position that we've established gross
12 negligence, because we do recognize that it's
13 (indiscernible). We do recognize that. That is not our
14 discussion here, but we believe that actually by the school
15 district or such that, it is gross negligence in failing to
16 protect.

17 And I'll finish this how I started. My colleague
18 downplayed injuries, and this is his job, so it's not a
19 personal attack on him. He downplayed injuries. He stated
20 it's minor, just a scratch, just a bump. It's just quarter-
21 sized.

22 You can put some alcohol on it, that's all. But again,
23 the law says that it's negligence, breach, and damages, and
24 it's our position that we showed damages. Lastly, TBI, birth
25 injury, autism, ADHD, epilepsy, cerebral palsy, narcolepsy,

1 asthma, CPD, anxiety, depression, and PTSD.

2 It is our contention that, based on specific facts here,
3 we have met the burden, and the Plaintiff's motion for
4 summary judgment should be denied.

5 THE COURT: Yes, sir?

6 MR. LYON: Thank you, Your Honor, just a quick response.
7 So I did neglect to mention the sheriff's department was in
8 this case. They have settled. I don't know why we mediated
9 apart from each other. The specific allegation with regard
10 to the sheriff's office employee was after a fight that MYS
11 was in that was recorded in the parking lot, and then shared
12 around, the allegation was that SRO, who was undisputedly a
13 sheriff's department employee, questioned MYS at the school,
14 and again, MYS didn't like the way the guy was questioning
15 him.

16 Mr. Caldwell said assault. There was no physical
17 assault in the record by the SRO, but in any event, that case
18 against the SRO, who the sheriff's office employed, has
19 settled. It's our position that that's no longer in the
20 case.

21 It's been satisfied. We make a note of that in our
22 brief, but we also say, if that's still in the case, we would
23 adopt the motion for summary judgment and the argument that's
24 made therein, that the sheriff's department made, so all
25 those would be applicable in this case.

1 We didn't want to repeat them. With regard to whether a
2 principal or coach or admin was in the locker room, that
3 actually hasn't been alleged in the complaint. MYS didn't
4 allege it. In fact, he sort of said, I couldn't see. I
5 couldn't see if there was anybody that saw this.

6 It's not my burden to establish whether or not there was
7 somebody in that locker room or not. There has been no
8 evidence either way in that case, but that's the Plaintiff's
9 burden to establish that. But again, going back to MYS's
10 testimony, no one could see what was happening in my little
11 area, even if they were there.

12 So I think that's a red herring of sorts. Finally, Your
13 Honor, with regard to the expert put forward, again, largely
14 from my initial review of the motion or response and
15 opposition, I think that's largely based on the expert's
16 testimony.

17 But that certainly shouldn't save this claim in terms of
18 whether or not it actually states fact sufficient to support
19 a Tort Claims Act action in this case. This is a person who
20 has never testified as an expert.

21 I surely would challenge him at trial, if needed to, but
22 he told me he only reviewed the allegations, our answer, and
23 then the discovery that the Plaintiffs provided, I believe,
24 is all he reviewed. So he's really opining on what if the
25 things that the Plaintiff has asserted are true.

1 And I'm not sure that's quite appropriate. That
2 certainly shouldn't stand in the way of this court granting
3 summary judgment in the district's favor.

4 THE COURT: We've got a bunch of deposition testimony.
5 We've got this large brief, and this is an important case to
6 everybody. I want to give it proper consideration. And did
7 you e-file your opposition to this motion?

8 MR. CALDWELL: Yes, Your Honor, I did. (Indiscernible).

9 THE COURT: In view of that, I think it'd be appropriate
10 for me to take a look at both of those, and I'm going to ask
11 that y'all submit proposed orders within, say, seven days.
12 Could you do that?

13 MR. LYON: Yes.

14 MR. CALDWELL: Yes, Your Honor.

15 THE COURT: Then I'll rule, and by that time, I will
16 have read everything. I'll have thought about it, and then
17 we'll be able to rule on it promptly. If y'all don't hear
18 from me within ten days, call me.

19 MR. LYON: Yes, Your Honor. That would be seven days
20 from today? Would be ---

21 THE COURT: Tuesday of next week.

22 MR. LYON: Next Tuesday, thank you, Your Honor.

23 THE COURT: whatever day that is. That'll be the 27th?

24 MR. LYON: 27th.

25 THE COURT: How about that?

1 MR. LYON: Just nailing that down.

2 THE COURT: See the way I did that?

3 Mr. LYON: Thank you.

4 THE COURT: Good to hear from y'all, and looking forward
5 to receiving those orders, and I'll have some studying to do
6 in the meantime. Thank you.

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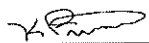
25 (THERE BEING NOTHING FURTHER, THE HEARING CONCLUDED.)

CERTIFICATE OF TRANSCRIBER

I, Kristen Primm, 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 12 for Florence County, South Carolina, on the 20th day of February 2024.

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

November 17, 2025



Kristen Primm
Certified Transcriber

1 STATE OF SOUTH CAROLINA) IN THE SOUTH CAROLINA CIRCUIT COURT
2 COUNTY OF FLORENCE) COURT C.A NO. 2021-CP-21-02121

3
4 Hannah Secka (MYNS))
5 Plaintiff,)
6 Versus)
7 Florence School District 1)
8 Defendant.)

9
10 H E A R I N G

11
12 DATE: August 21, 2024

13
14 LOCATION: South Carolina Circuit Court 12

15
16 JUDGE: Michael G. Nettles

17
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EXHIBITS

[None Marked]

21 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH IS
22 REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)
23
24
25

PROCEEDINGS

THE COURT: The next case is Hannah J Secka versus Florence County School District 1.

MR. CALDWELL: Good morning Your Honor.

THE COURT: Good morning. I will take a moment to get settled and when we're settled, I'll be glad to hear from the moving party.

MR. CALDWELL: I'm ready to proceed.

THE COURT: I'm glad to hear from the moving party. Yes, sir.

MR. CALDWELL: May I please the Court, Your Honor. I'm Darryl Caldwell I'm here representing the Plaintiff's, Ms. Hannah Secka and her son [indiscernible] in a motion for reconsideration for an order of summary judgment that was granted in March of this year, Your Honor. Briefly on the facts the case was filed in 2021 where the Plaintiffs against the school district, Forrest County School District and Forrest County Sheriff's Department. The Plaintiff have settled against Forrest County Sheriff's Department and the remaining suit was against Forrest County School District 1.

Mr. Jansen was a student at -- in the district at Sneed Middle School and West Florence High School when the alleged -- when the incidents occurred. The motion for summary judgment, again, was granted in March. And we come back with a motion for consideration on asking the Court to look at two

1 specific or three specific instances in our motion. Either
2 motion granting summary judgment to school district.

3 The Court alleged that there was no material issue of
4 fact as it relates to loss. It is our contention that there
5 was indeed a loss. And pursuant to South Carolina Tort Claim
6 Act, a loss is defined as compensatory body injury, disease,
7 death, or damage. We ask the Court to look at the evidence
8 that was submitted in support of our motion in which there were
9 clearly body injuries that occurred with two on my client.

10 He had scratches on his back, he had scratches on his
11 face. As a result of an incident that occurred in the football
12 locker room where there was -- where it's undisputed that there
13 was no faculty or staff present in the locker room. So, we
14 asked that -- the loss here are more than just mere emotional
15 harm. There's clear body image, body injuries.

16 If the Court would take a look at the pictures that
17 were submitted, you know, as a result of Exhibit 1. As well as
18 the police report that was filed which is also included in
19 Exhibit 1 of the motion for -- motion in opposition to the
20 Defendant School District's Motion for summary judgment.

21 In addition, Your Honor, we asked the Court to give
22 consideration or to the affidavit that was prepared and filed
23 contemporaneously with a motion for consideration in which the
24 district's which -- in which the Plaintiff expert Dr. Sterling
25 Harris articulated an opinion as it related to the injuries but

1 as well as articulated an opinion as it related to the
2 district's violating their policy. In the order for dismissal
3 we wish to [indiscernible] one of the grounds was that there
4 was not a violation of a specific policy or policies.

5 What we submitted from affidavit that was prepared by
6 Dr. Harris basically articulated the policies, the specific
7 policies that were violated as a result of the district's fear
8 of -- the district's fear or what they failed to adhere to.
9 Specifically, the policies are enumerated in our motion and
10 they are attached to our motion as well as the affidavit from
11 Dr. Harris, Your Honor. And the last grounds we ask that the
12 motion for consideration -- reconsideration be granted is that
13 there was a determination by the trial court that there were --
14 although there may have been questionable behavior, behavior
15 was not recognized as reckless behavior.

16 And Your Honor, it is our -- extremely reckless, which is
17 required pursuant to the South Carolina Torts Claim Act. And
18 it is our position that the termination of whether there was
19 questionable behavior and whether that's categorized as
20 extremely reckless would be along with the other two questions.
21 Would be questions for the jury to answer as opposed to the
22 Court looking at the factors and then making the determination
23 that indeed it wasn't reckless.

24 And I think the case law that we've provided, Your
25 Honor, is our position that, that would be a question for the

1 | when you addressed the locker room incident. Noting that there
2 | wasn't a material -- there wasn't a question of material --
3 | question of material facts on that. In that the only testimony
4 | that we have is conflicting testimony of the Plaintiff himself
5 | about whether it even happened.

6 | So, you have addressed that issue already in your
7 | original order. Similarly, as it relates to the District's Act
8 | supervision, all of that has previously been addressed in your
9 | order already. As it relates to the second issue that Mr.
10 | Caldwell brought up -- the after the fact affidavit.

11 | Again, it's an after the fact affidavit that could have
12 | been presented at the time and it was not. So, again, our
13 | position today again, is that all of these issues, what was
14 | presented to you have already been fully addressed, fully
15 | briefed, fully considered, and that there's -- I'm not hearing
16 | an error or law that would result in a manifest injustice here.
17 | So, that's what we're asking you to deny the motion for
18 | reconsideration and allow the order to stand.

19 | THE COURT: What is the law with regard to submitting
20 | additional evidence in a motion for reconsideration? I don't
21 | think we've ever had that before.

22 | MS. SEIBERT: And I believe, Your Honor, we addressed
23 | that in our motion, let's see. So, again, the case law that we
24 | have is federal case law, the one that we could find. But that
25 | was the -- it was a 2007 case Consulting Energies Inc versus

1 jury. So, in conclusion in our part, one, Your Honor, we do
2 think that there's a material question of genuine fact that's -
3 - as it relates to loss and that question should be presented
4 to the jury. Likewise, we believe that the weight should be
5 assigned to the expert's testimony and expert's affidavit
6 articulating a clear violation of district policies.

7 And we do believe that the district's behavior can rise to
8 the level of extremely reckless. And that would be a decision
9 that that would be made at the jury or at least at the close of
10 the -- if the Plaintiff's allowed to proceed a decision that
11 would be made at the close of the Plaintiff case in chief as
12 opposed to being made at the summary judgment motion.

13 THE COURT: Thank you very much, very well presented.
14 Glad to hear from the Defendant.

15 MS. SEIBERT: Good morning, Your Honor. This is
16 Meredith Seibert on behalf of Florence County School District
17 1. And just very briefly, I think Your Honor was correct in
18 your March, 2024 order. Mr. Caldwell has brought up three
19 issues that he would like you to consider, but here you have
20 fully considered and addressed at least two of those absent
21 after the fact affidavit. Those were fully addressed. And all
22 the arguments that were raised during the summary judgment
23 stage have been addressed and considered.

24 In terms of the type of damages, the scratches, the
25 [indiscernible], Your Honor, you addressed that in your order

1 Geometric Software and that motions to reconsider should not be
2 used to submit evidence which should have previously been
3 submitted.

4 THE COURT: Yes, sir.

5 MR. CALDWELL: May I please the Court if I could just
6 respond specifically to that issue and then we'll generate to
7 several others. But with regard to our motion for
8 reconsideration, Your Honor, we did also quote it under Rule
9 60B. And if we look at Rule 60B5, it does give the Court
10 discretion to consider all evidence that's presented and 60B5
11 deals specifically with equity and it is equitable for the
12 Court and certainly that discretion relies with you and you can
13 review and under 60B5, we all allow to submit an affidavit in
14 furtherance of trying to prove the 60B claim. So, when we
15 filed the motion for reconsideration, we did file on the 59E
16 but also, we filed on the 60B and I'm representing to the Court
17 under 60B5.

18 THE COURT: What do you have to say about that?

19 MS. SEIBERT: So, again, if 60B if we're looking at
20 equity. Equity is not that at the end of this I'm going to try
21 to come up with something that will allow me to fix what's in
22 the order. We've fully -- we had full discovery in this
23 matter. We had opportunities for deposition. The same person
24 who has submitted the clarifying affidavit was subject to a
25 deposition. This is an after the fact attempt to fix an error

1 or a deficit in the case and that's not what 59 or 60B is
2 intended to do.

3 I would also, if I could, Your Honor, I believe that
4 the affidavits that are at issue, I don't know that they're
5 even really dispositive to what we were referring. I mean, it
6 says that again based on the information that the -- in this
7 case expert witness had, that he believes that district
8 violated certain policies. But as we pointed out in our
9 motion, that affidavit to the extent that you would want to
10 consider that it's based purely on the allegations.

11 The expert as part of his deposition noted that he had not
12 reviewed the deposition testimony. So, the facts or the
13 information that he's making his determinations on are not the
14 same facts that you, Your Honor, used when issuing this order.
15 He didn't consider the depositions; he didn't consider the
16 facts. His testimony, his affidavit is based solely on the
17 allegations in the complaint. Some limited school records and
18 his policy review. That's it, not the actual facts.

19 MR. CALDWELL: And I could respond to that, Your
20 Honor, and I know my esteemed counsel is well aware but expert
21 witness testimony can rely based on information whether it's
22 admissible information or not, whether it's hearsay or not. An
23 expert witness pursuant to South Carolina Court is allowed to
24 testify as to what they're provided. Now, the weight that's
25 given to that, that would be a determination of the Court and

1 | that would be a determination that's made by the actual jury if
2 | it reached that level.

3 | But an expert witness so she -- my esteemed counsel did
4 | conceive that he reviewed documents, he reviewed information
5 | and he rendered an opinion. Also, Your Honor, and more
6 | specifically, I would like to add he did testify doing and we
7 | have presented that to the Court, he did testify that the
8 | district violated policies, he just didn't testify as to a
9 | specific policy. So, what the memorandum is what our -- the
10 | affidavit that we submitted just basically clarified the actual
11 | specific Florence County School District 1 policies that were
12 | valid.

13 | THE COURT: What I'm going to do is I'm going to ask
14 | that each of you present proposed orders within the next 10
15 | days. And I'm going to ask the Defense to specifically address
16 | the issue of the affidavit and I'll add -- and I'll allow you
17 | to do the same. Very good and it's 10 days will that suffice
18 | for you all?

19 | MR. CALDWELL: Yes, Your Honor. Thank you, Your
20 | Honor.

21 | MS. SEIBERT: Yes, sir.

22 | THE COURT: Thank you.

23 | MR. CALDWELL: May it please the Court, Your Honor.
24 | I did convey to my client that I didn't think it's appropriate
25 | in this setting to speak with the Judge but she is requesting

1 it.

2 THE COURT: All right. I'll be glad to hear from
3 her.

4 MR. CALDWELL: Thank you.

5 MS. SECKA: Okay. Good day. May I please the Court,
6 Your Honor. I'm before you today to humbly offer testimony and
7 evidence, if possible, of the crimes of abuse, neglect,
8 assault, negligence, and gross miscarriage of justice committed
9 against both my son and I as a matter of law. As I sit here
10 and I listen by the depositions in our lawsuit, we
11 specifically said that my son was hazed in that locker room.
12 We have proof, law enforcement proof of assault and battery is
13 what they deemed and called it. The district failed to
14 investigate, document, report or even listen to me that led to
15 ongoing habitual harassment, intimidation, bullying,
16 retaliation against me. Now, they're suing me for fighting
17 for my son and his rights. Also --

18 THE COURT: You say who's suing you?

19 MS. SECKA: Florence School District 1.

20 THE COURT: I was not aware of that. Of course,
21 that's not before me.

22 MS. SECKA: Yes, sir. I understand but I'm trying to
23 go let you see; this has been six years and seven months of
24 ongoing litigation and me fighting for my son and his rights
25 because we are Muslim. I don't see how the Kathy Luhrs teacher

1 incident isn't being brought up for her to be allowed to write
2 a gang style tattoo on a Muslim child and get away with it and
3 it's not being brought up.

4 I don't see that in the causes of action. I'm not hearing
5 it and I'm very frustrated. I'm frustrated with my lawyer and
6 I'm frustrated with the district and I'm kind of frustrated
7 with the Courts because I feel like the complete totality of
8 the case and the allegations it's not being brought before you,
9 Your Honor and that's probably why you came to your decision.

10 These depositions I would love for you to look at
11 them. I took the time to make copies of everything I feel is
12 pertinent from our perspective so that you can see. These
13 hearing officers that wrote these orders. They're under
14 investigation for bribes from Richard O'Malley, Florence School
15 District 1 superintendent.

16 So, this is going to be big and nasty but I want the fact
17 of the matter that my son was victimized. Now, I'm being
18 victimized for trying to protect guide, my son has been in no
19 trouble. He's 20 years old. He was born dead, he had
20 [indiscernible] they said he never walk, he never talk. The
21 doctor fractured his skull and broke his nose when they
22 delivered him out of me. And he's here today doing very well,
23 I'm very proud of him. He had extreme issues in school because
24 he was different, he was on a spectrum. Ben Carson diagnosed
25 my son. We're not from here, we're from New Jersey. His

1 nickname was Little Bill. He had some, you know, they're not
2 telling the complete truth.

3 THE COURT: His nickname is what?

4 MS. SECKA: Little Bill.

5 THE COURT: Little Bill. Okay.

6 MS. SECKA: Little Bill. And we still -- he thought
7 he was really Little Bill until he was in the third grade. You
8 know, because he kind of resembled him as a young toddler and
9 so with that being said, Your Honor, also an expert testimony,
10 Larry Jackson, he's the former outgoing school district one
11 superintendent, he's willing to come and testify against
12 violation of board policies. He even gave me an affidavit to
13 give to you on my behalf because he - all -- the community is
14 just furious with the whole situation.

15 It took a civil rights organization to appeal to the
16 governor and the governor has since responded to the Civil
17 Rights Organization regarding what has transpired and refer our
18 case to the Office of the Inspector General, the Department of
19 Justice and the FBI. So, there's proof. She speaks of the
20 depositions I would like for you to read all the depositions
21 and see that he had a one-to-one paraprofessional Daisy
22 Johnson.

23 She's like seventy years old. She was like a grandma
24 to him. She was with him from sixth grade to senior year.
25 When Covid came and went by his junior year, he said, mommy,

1 I'm not going back to West Florence. I can't go there anymore
2 because they going to lock me up. They're trying to set me up
3 to be a drug dealer. When they -- he was given drugs and he
4 overdosed in that school.

5 All the other kids that got caught in overdosing in West
6 Florence, they sent them to the emergency room and left my son
7 at the school for me to come get him and take him to get
8 medical treatment. So, now we had to deal with addiction
9 issues because of school neglect. He's fine now but this is
10 what we have gone through for six years and seven months and
11 the complete narrative can only come out in a trial, Your Honor
12 can only come out in a trial.

13 THE COURT: Yes, ma'am.

14 MS. SECKA: Thank you.

15 THE COURT: One of the things I kind of want -- you
16 can have a seat. One of the things I kind want to explain to
17 you is that the -- this is a forum that's governed by the Rules
18 of Civil Procedure. And you wanted to speak to me and I wanted
19 your voice to be heard, but the law doesn't allow me to take
20 into consideration what you've told me here today.

21 Since it has not been subject to cross-examination. And
22 it very well might be that you ultimately you are right. And
23 of course, your lawyer will explain to you there's a remedy if
24 you feel as though this matter was not resolved in your favor.
25 I'll recommend that you wait and see how this motion for

1 reconsideration is resolved and if it's resolved not in your
2 favor or against you then there are other remedies for you.

3 MS. SECKA: Okay.

4 THE COURT: And all of that information is available
5 and I wish you the best of luck and I'm sorry for the
6 circumstances that bring you here.

7 MS. SEIBERT: Thank you.

8 THE COURT: Very good. All right. Would you like to
9 respond in any way?

10 MS. SEIBERT: I think you addressed some of my
11 concerns. I will say in -- on page five of the district's
12 motion for summary judgment, the litigation that she's
13 referring to is IDA Individuals with Disabilities Education
14 Act. It's a federal law that deals with students with special
15 needs. The litigation that she is referring to is IDEA based
16 litigation between her and the district and it's unrelated to
17 this particular matter.

18 THE COURT: It's not a civil lawsuit.

19 MS. SEIBERT: No. Well, I believe it is now in
20 Federal District Court. Ms. Secka had filed basically there's
21 an -- the allegation she had filed up to 10 due process
22 complaints against the district, withdrawn them before they --
23 right before they would go to a hearing and so the district
24 ultimately sought attorney's fees based on --

25 THE COURT: That's what that --

1 MS. SEIBERT: And that's -- and then there was a
2 settlement and then that has not been executed. So, there is a
3 --it's a whole IDEA separate. So, I just wanted to assure
4 that, Your Honor, that the litigations you're referring to is
5 unrelated to this particular matter

6 THE COURT: That's a different matter for a different
7 forum.

8 MS. SEIBERT: That's correct. Yes, sir.

9 THE COURT: Well, I wish you the best of luck. Good
10 luck to you. Very well done.

11 MR. CALDWELL: Thank you Your Honor.

12 MS. SEIBERT: Thank you.

13

14

15 [END OF HEARING]

16

17

18

19

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21

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23

24

25

1 CERTIFICATE OF TRANSCRIBER

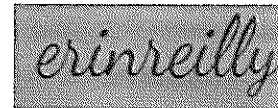
2 I, ERIN REILLY, a court-approved transcriber, do hereby certify
3 that the foregoing is a true, accurate and complete Transcript
4 of Record of the proceedings had and evidence introduced in the
5 trial of the captioned case, relative to appeal, in the South
6 Carolina Circuit Court, South Carolina, on the 21st day of,
7 August 2024.

8
9 I do further certify that I am neither of kin, counsel, nor
10 interest to any party hereto.

11 May 14th, 2025

12 ERIN REILLY

13 TRANSCRIBER

14 A rectangular box containing a handwritten signature in cursive script that reads "erinreilly".
15

~~~~~EXHIBIT A~~~~~

State of South Carolina

Common Pleas Court

County of Florence

Hannah J. Secka, individually and as paren
plaintiffs,

V.

#2021-CP_21-02121

Florence County School District One and Florence
County Sheriff's Department
defendants.

Zoom Deposition of: Moudou-Yasen Nasir Secka

Location of Deponent: 140 Wildwood Park Drive,
Columbia, South Carolina

Date: Wednesday, November 16th, 2022

Time: 1:48 p.m. - 4:51 p.m.

Court Reporter: Erica Creel

The deposition is taken
agreement, in the above
the above-named court
Carolina Rules of Civil

Kathy Lohrs
11/16/2022
Deposition
(MYS)

Q & A COURT
Post Office
181 East Evans Street (25500)
Florence, South Carolina

Telephone: (843) 673-9845

E-mail: info@qacourtreportingonline.com

Visit: www.qacourtreportingonline.com

1 By MR. LYON:

2 Q All right. Mr. Secka, tell me about
3 the -- the situation involving Ms. Luhrs, who you
4 say -- or the complaint says used a marker to
5 write something on your arm.

6 A Right.

7 Q How did that even -- and -- and do you
8 agree that -- that what was written on your arm
9 said, loyalty.

10 A No. It -- it -- it said, Loyalty
11 (sic).

12 Q Okay. So do you have -- I mean, it
13 looks like to me that Ms. Luhrs took a little time
14 with that really lovely cursive writing, writing
15 on your arm. So tell me what happened before and
16 after that. How did that come to pass?

17 A This was -- I believe, the last week
18 of school. And before this situation even
19 happened, me and Ms. Luhrs' relationship was
20 already like, on the rocks. Because -- we -- we
21 also had like, different types of altercations and
22 situations that were way bigger than this
23 incident. But this specific one she -- yeah.
24 This was the last week of school.

25 I believe, we were watching a movie.

1 Yeah. Was watching a movie and we all was just
2 talking like, we was all chilling in Ms. Luhrs'
3 class. And then I can't remember what happened.
4 I just remember we all ended up like, piling up by
5 her desk and she had a Sharpie. And I told her --
6 I told her like, in a -- in a kind of nonchalant
7 type of way that I -- I told her -- basically, we
8 was talking about -- everybody in the classroom
9 was talking about tattoos. And she began to say
10 something about she wanted a tattoo or something
11 like that. And she asked me if I ever thought
12 about getting one because me and the other
13 students were all talking about it. And I told
14 her that I was Muslim and that I didn't really
15 like, plan on getting any type of tattoos. And
16 she began to just start doodling on pieces of
17 paper. And I'm trying to remember exactly how she
18 ended up writing on my arm. But I just remember I
19 did not really appreciate it, but -- I'm trying --
20 I'm trying to reach far back right now. Trying to
21 go down memory lane.

22 Q Take your time.

23 A But I -- I do remember -- I do
24 remember the -- the other students laughing
25 because she spelled it wrong, though. And I felt

1 very humiliated because it -- because it just --
2 it didn't really sit right with me because I just
3 -- it just didn't really, really sit right with me
4 to be honest. But as far as like, her writing on
5 my arm, I'm not going to say I let her do it, but
6 I'm not going to sit here and say like, she did it
7 just like randomly because -- I got thrown off
8 just now. Yeah. Yeah.

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

25 Q Are you -- are you upset that she

1 wrote on your arm or that she spelled it wrong and
2 then that made everybody laugh.

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

8 Q Humiliation. Yes.

9 A Yeah. Yeah. It just sounded like a
10 mix of that. Because me and her already had a
11 very rocky relationship. Like, before this with,
12 like, different other incidents where she's -- I
13 believe, she -- yeah, I'm pretty sure she pressed
14 charges against me. And I -- I believe she -- no,
15 I don't believe. She did run off with my phone
16 and tried to -- tried to -- I don't know what she
17 tried to do with my phone. But she -- she
18 promised me she was going to give me my phone at
19 one point at the end of the class when she
20 snatched it off of the desk. And instead of her
21 giving me back my phone when the bell rang, she
22 decided to take it out of the cabinet and go and
23 walk off towards the -- the principal's office.
24 And as I was behind her, I was asking her and I
25 was like, hey, what are you doing with my phone.

1 Because mind you, she promised me she was going to
2 give me my phone at the end of the class period.
3 But she also did snatch it from -- like, without
4 my consent. So that's why I said me and her
5 relationship already was like, rocky.

6 And when I -- when I did try to get my
7 phone back from her, like, when I tried to reach,
8 she made a scene and made it seem like I basically
9 tried to hit her. And she -- she tried to call
10 the S.R.O. and make a big 'ole scene and make it
11 seem like I tried to harm her. When in reality, I
12 was just trying to get my belongings back. You
13 know what I'm saying?

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

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

19 Q All right. Were you -- do you also
20 recall looking at an incident in your behavior --
21 in your student discipline summary and the
22 interaction with Luhrs that I'm looking at, said
23 that -- that you cursed at her, saying, that's F'd
24 up. I can show you if you want, but does that --
25 do you recall any cursing at your -- I guess, your

1 eight grade teacher at that point?

2 A I don't recall any cursing --

3 Q All right.

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

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

11 A You said what's my understanding when
12 I can and can't have my phone?

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

14 A Well, whenever we're not doing
15 anything in class like, whenever we're not doing
16 actual classwork or tests or projects, et cetera,
17 et cetera. You see my phone -- my phone wasn't
18 bothering her or anybody like, it was on the
19 corner of my desk and I was literally doing my --
20 my work. And she -- what she did was she moved my
21 seat by her table. That's what she did. She
22 moved my seat by her table, so it was kind of easy
23 for her to just reach over and just grab it
24 without me actually like, paying attention for
25 her, since I'm doing my work.

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

3 A No.

4 Q -- not your recollection?

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

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

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

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

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

15 Q Okay.

16 A That's just how I felt.

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

20 A It was just me and one other student.

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

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

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

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

7 A No. No.

8 Q Was there a movie on about loyalty
9 or --

10 A No.

11 Q -- y'all talking about loyalty?

12 A No.

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

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

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

22 A Oh, very, very -- what's the word I'm
23 looking for? I already say humiliated, but I also
24 felt kind of like, different from the others.
25 Especially, in her classroom environment. Because

1 it just -- it just didn't sit right with me, the
2 fact that she -- she put something on my arm and
3 it wasn't even spelled right. So it just -- it
4 just didn't really sit right with me because it
5 just -- it just looked goofy. And then when I
6 tried to wash it off, it wouldn't come off. So I
7 had to wait like, a day or two, so it was just --
8 it was just kind of like there for like, a couple
9 days.

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

13 A No, it was the last week of school.

14 Q Last week of school. Okay.

15 A Yes.

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

19 A From Sneed?

20 Q No. I'm sorry.

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

23 Q Yes.

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

25 Q Okay. How -- how many times did you

1 talk with her about it?

2 A A few -- a few. A few, for her to be
3 familiar, anyway.

4 Q Okay. All right. Going back quickly
5 to the -- the interrogation -- what you call the
6 interrogation. The S.R.O. was -- was asking you
7 about the fight; is that correct?

8 A Right.

9 Q So -- and -- and you said a Lieutenant
10 Hanna was in there as well?

11 A Yes, sir.

12 Q And -- and who is Lieutenant Hanna?

13 A He's somebody I can recognize like,
14 off record, if I see him. I don't really know
15 them personally like, as of outside of like, the
16 school. But he is somebody I can look at and go,
17 okay, I know exactly who that is. If you get what
18 I mean.

19 Q Yes, I think so. You recognize him,
20 in other words?

21 A Right. Right. Right.

22 Q You -- does he wear -- it's a he, I --
23 I assume, right?

24 A Yes, sir.

25 Q Does he wear a uniform?

8:04

LTE



Florence
May 29, 2018 6:41 PM

Edit





AGENCY I.D.
SC0210000

INCIDENT REPORT
Florence County Sheriff Office

CASE NUMBER
2019-06-0227

NCIC
INQ. ENTD.

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. NRP - INFORMATION ONLY REPORTS - INFO		☒ YES ☐ NO	☐ YES ☐ NO	53(School - Elementary/Secondary)		☐ Individual ☐ Business ☐ Financial In ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.
2.		☐ YES ☐ NO	☐ YES ☐ NO			
3.		☐ YES ☐ NO	☐ YES ☐ NO			
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE	WEAPON TYPE	
1102 EBENEZER RD, Florence, SC				29501-		
INCIDENT DATE		24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK
05/29/2018		12:00		05/29/2018	13:00	06/10/2019 9:00
DISPATCH DATE/TIME 24 HR. CLOCK		DISPATCH TIME		DEPART. TIME		LOCATION NO.
06/10/2019		9:00				
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE
SECKA, HANNAH				#1 #2 #3	☒ S ☐ O ☐ U	B
ADDRESS				CITY	STATE	ZIP CODE
503 W. DARLINGTON ST				FLORENCE	SC	29501-
VICTIM'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE
SECKA, MOUDOU-YASEN NASIR				#1 #2 #3	☒ S ☐ O ☐ U	B
HEIGHT				WEIGHT	HAIR	EYES
5'07"				120	BLK - Black	BRO - Brown
ADDRESS				CITY	STATE	ZIP CODE
503 W. DARLINGTON ST. #B				Florence	SC	29501-
VISIBLE INJURY (VICT. 1) ☐ YES ☐ NO ☐ EXPLAIN -				COMPLAINT OF NON-VISIBLE INJURIES: ☐ YES ☒ NO		
VICTIM (NO. 1): NONE ☐ USING ALCOHOL ☐ DRUGS ☐ TYPE:						
TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPLASMT. ☐ OTHER ☐						
NAME (LAST, FIRST, MIDDLE)				RACE	SEX	AGE
LUHRS, KATHY				W	F	60
FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
ADDRESS				CITY	STATE	ZIP CODE
4516 WILLOW CRK RD				Florence	SC	29505-
SUBJECT (NO. 1) USING: ALCOHOL ☐ COMPUTER EQUIP. ☐ ARRESTED NEAR OFFENSE SCENE ☐ YES ☐ NO ☒				DATE/TIME OF OFFENSE		
DRUGS ☐ NONE ☒ TOTAL # ARRESTED 0				05/29/2018 12:00		
ON OR ABOUT 05/29/2018 KATHY LUHRS, A MATH TEACHER AT SNEED MIDDLE SCHOOL FAILED TO FOLLOW MY CHILD'S BEHAVIOR INTERVENTION PLAN (BIP). ACCORDING TO THE DISCIPLINE REFERRAL FROM HALEY CAGLE, PRINCIPAL. THE TEACHER FAILED TO FOLLOW HIS BIP FOR DE-ESCALATION FOR A COOL-DOWN PERIOD IN GUIDANCE. MS. LUHRS COMMITTED CHILD ABUSE WHEN SHE WILLFULLY DREW A GRAFFITI STYLE GANG TATTOO ON MY CHILD WITH A TOXIC CHEMICAL SHARPIE PEN "DEGRADING : HIM IN FRONT OF HIS PEERS, WHICH IS A CRUEL RACIST CRIME, SHE FURTHER HUMILIATING HIM BE DELIBERATELY MISSPELLING THE WORD "LOYALTY". HIS PEERS TEASED AND TAUNTED HIM ALL DAY. HE BEGGED ME TO REMOVE IT. THIS IS A VIOLATION OF RULES AND REGULATIONS OF THE STATE BOARD OF EDUCATION. ONCE CHILDREN SEE AN AUTHORITY FIGURE "DEGRADE" A SPECIAL EDUCATION AUTISTIC STUDENT, HIS PEERS WILL DO THE SAME THING. THIS HAS BEEN MY CLAIM THROUGHOUT. TEACHERS AND STUDENTS HAVE BULLIED MY CHILD HIS ENTIRE SCHOOLING IN THE STATE OF SOUTH CAROLINA. "WHAT DO YOU DO WHEN THE TEACHER IS THE BULLY?"						
PURSUANT TO THE SC STANDARDS FOR EDUCATORS NOT ONLY THE UNPROFESSIONAL, IT IS CRIMINAL. SHE HAS NO						
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY		
TOTAL VALUE						
TYPE (GROUP)						
STOLEN						
DAMAGED						
BURNED						
RECOVERED						
SEIZED						
COUNTERFEIT						
SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE ☐ ADM. CLOSED ☐		ARRESTED UNDER 18 ☐
☒ YES ☐ NO ☐		☐ YES ☐ NO ☐		☐ UNFOUNDED		ARRESTED 18 AND OVER ☐
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED		4. ☐ VICTIM DECLINES COOPERATION
5. ☐ JUVENILE - NO CUSTODY		REPORTING OFFICER(S)		DATE		UNIT NUMBER
0149 - Lt. Clint Caldwell		06/10/2019		0149		1026 - Donna Baxley
FOLLOW-UP INVESTIGATION		OFFICER		DATE		UNIT NUMBER
☐ YES ☒ NO				06/10/2019		

AGENCY I.D.
SC0210000

SUPPLEMENTAL INCIDENT REPORT
Florence County Sheriff Office

CASE NUMBER
2019-06-0227

NCIC
INQ. ENTD.

☐ ORIGINAL REPORT ☐ MODIFIES ORIGINAL	☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE	☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY	PAGE <u>2</u> of <u>3</u> PAGES

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	☐ VICTIM #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
☐ SUBJECT #	☐ RUNAWAY	ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.	HOME PHONE	EMPLOYER PHONE	
	☐ WANTED	VICTIM NO. ☐ VISIBLE INJURY: ☐ NO ☐ YES			COMPLAINT OF NON-VISIBLE INJURIES ☐ NO ☐ YES	VICTIM USING ALCOHOL: ☐ ☐ NONE		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT		☐ ALONE	
☐ WARRANT	☐ ARREST	EXPLAIN			DRUGS: ☐			☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSISTED	
☐ JAIL	☐ SUMMONS	☐ SUBJECT NO. ☐ USING: ALCOHOL ☐ DRUGS ☐ TYPE: ☐ COMPUTER EQUIP. ☐ NONE ☐									
☐	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
	☐ VICTIM #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
☐ SUBJECT #	☐ RUNAWAY	ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.	HOME PHONE	EMPLOYER PHONE	
☐ WANTED	☐ WARRANT	VICTIM NO. ☐ VISIBLE INJURY: ☐ NO ☐ YES			COMPLAINT OF NON-VISIBLE INJURIES ☐ NO ☐ YES	VICTIM USING ALCOHOL: ☐ ☐ NONE		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT		☐ ALONE	
☐ ARREST	☐ JAIL	EXPLAIN			DRUGS: ☐			☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSISTED	
☐ SUMMONS	☐	☐ SUBJECT NO. ☐ USING: ALCOHOL ☐ DRUGS ☐ TYPE: ☐ COMPUTER EQUIP. ☐ NONE ☐									

NARRATIVE

RIGHT TO BRAND MY CHILD WITH TOXIC CHEMICALS. KATHY IS UNFIT FOR HER POSITION AS A TEACHER, ESPECIALLY TEACHING THE YOUNG MINDS OF BLACK AFRICAN AMERICAN MALES. THIS HAS CAUSE TREMEDOUS PSYCHOLOGICAL AND EMOTIONAL DISTRESS. ONCE CHILDREN SEE AN AUTHORITY FIGURE "DEGRADE" A SPECIAL EDUCATION STUDENT, HIS PEERS WILL DO THE SAME THING. MY CHILD IS A VICTIM OF HABITUAL HIB AND PHYSICAL ATTACKS AT SCHOOL. KATHY LUHRS, TEACHER FILED A FALSE POLICE REPORT, CASE # 2017-10-0593, CHARGE: DISTURBING THE SCHOOL SECTION 16-15-420 DATE OF INCIDENT 09/20/17, DATE OF INCIDENT 10/20/19 ENTERING MY DISABLED CHILD INTO THE CRIMINAL SYSTEM DATABASE. FERPA/VIOLATION BY RELEASING ALL OF HIS PERSONAL IDENTIFICATION. MY CHILD TOLD THE TEACHER "I HATE YOU, AND I HOPE YOU BURN IN HELL!" SHE HAD NO RIGHT TOUCHING MY CHILD IN AN INAPPROPRIATE MANNER, NEVERTHE LESS

VEH/JUN/ECT	STATUS		TYPE	VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.	
	☐ STOLEN	☐ RECOVERED	☐ VEHICLE	SERIAL AND/OR OWNER APPLIED NO.		STATE	
☐ FOUND	☐ TOWED	☐ SUSPECT	☐ BOAT	YEAR OF REGISTRATION	YEAR OF EXPIRATION	YEAR	MAKE
☐ VICTIM	☐	☐	☐ LICENSE PLATE	MODEL	STYLE	COLOR	TYPE
☐	☐	☐	☐ SECURITIES/BONDS, STOCKS	NIC NO.		DENOMINATION	ISSUER
☐	☐	☐	☐ ARTICLE	SECURITIES DATE		MISCELLANEOUS	

PROPERTY EST.	TYPE (GROUP)						TOTAL VALUE
	STOLEN						
	DAMAGED						
	BURNED						
	RECOVERED						
	SEIZED						
	COUNTERFEIT						

ADMINISTRATIVE	SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE	☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
	☐ YES ☐ NO		☐ YES ☐ NO		☐ UNFOUNDED		☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY							
	REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER
	0149 - Lt. Clint Caldwell		06/10/2019	0149	1026 - Donna Baxley		06/10/2019	
					FOLLOW-UP INVESTIGATION OFFICER			
					☐ YES ☐ NO			

AGENCY I.D.
SC0210000

SUPPLEMENTARY INCIDENT REPORT
Florence County Sheriff Office

CASE NUMBER

2019-06-0227

NCIC

INQ. ENTD.

☐ ORIGINAL
REPORT
☐ MODIFIES
ORIGINAL

☐ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS
☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 3 of 3 PAGES

WRITE ON HIM WITH A TOXIC CHEMICAL MARKER. THIS IS A TRUE "BREACH OF TRUST" OF HER AUTHORITY TO ME
AS A PARENT.

NARRATIVE

ADMINISTRATIVE

SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☐ YES ☐ NO		☒ ACTIVE ☐ UNFOUNDED	☐ ADM. CLOSED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY							
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER
0149 - Lt. Clint Caldwell		06/10/2019	0149	1026 - Donna Baxley		06/10/2019	
				FOLLOW-UP INVESTIGATION OFFICER ☐ YES ☒ NO			

~~~~~EXHIBIT B~~~~~

State of South Carolina

Common Pleas Court

County of Florence

Hannah J. Secka, individually and as paren
plaintiffs,

V.

#2021-CP_21-02121

Florence County School District One and Florence
County Sheriff's Department
defendants.

Zoom Deposition of: Moudou-Yasen Nasir Secka

Location of Deponent: 140 Wildwood Park Drive,
Columbia, South Carolina

Date: Wednesday, November 16th, 2022

Time: 1:48 p.m. - 4:51 p.m.

Court Reporter: Erica Creel

The deposition is taken pursuant to the
agreement, in the above-captioned case,
the above-named court reporter is sworn to
Carolina Rules of Civil Procedure.

Q & A COURT REPORTER
Post Office Box 1000
181 East Evans Street
Florence, South Carolina

Telephone: (843) 673-9845

E-mail: info@qacourtreportingonline.com

Visit: www.qacourtreportingonline.com

Locker Room
Hazing
Assault / Battery
11/16/2022
Deposition
(MINS)

1 A Right.

2 Q Is that all?

3 A Yes, sir.

4 Q All right. And then as I understand
5 it, at some point, Mr. Dowdell came in --

6 A Right.

7 Q -- and took you out; is that correct?

8 A Right. Right.

9 Q Okay. All right. And that -- that's
10 the only district -- well, scratch that question.
11 I'm going to jump now to another incident that
12 your complaint describes, as of October -- well,
13 it -- it describes as having been -- having
14 occurred on October 17th, 2018. And it says that
15 Yasen was attacked by several students in West
16 Florence High School's athletic room resulting in
17 physical injuries to his face and back. So tell
18 me about that incident from your -- your
19 perspective.

20 A Okay. This was the locker room
21 incident. So this was when me -- well, this is
22 when I first started playing football actually.
23 Yeah.

24 Q As a freshman, right?

25 A Right. Right. And I guess, like,

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

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

8 A Right. Right.

9 Q Okay. All right. Go ahead. Sorry.

10 A Now, I didn't understand what the term
11 meant at the time, but I do now. So when I first
12 started playing football, we were going to locker
13 rooms and you know, we would all change and stuff.
14 And it'll be kind of like -- it'll be common for
15 the boys to start acting gay when we would change
16 and like, put on our -- our football gear,
17 basically. It'll be a common thing like, for the
18 boys to actually start acting gay and stuff.
19 Because like, that'd just be like -- that'd just
20 be some people's thing, you know.

21 But one -- one particular day, I
22 remember these two -- these two white males, they
23 were messing with me because -- well, one came up
24 to me. He was like -- he was like, who are you?
25 Oh, he was like, you the fresh meat. And I was

1 like, what you mean by that? And he start
2 laughing. And then he went and got his friend.
3 He was like, hey, bro, we got fresh meat. And
4 they start laughing. And then they start like,
5 laughing and getting closer and closer to me like,
6 as I'm changing my clothes and stuff. And so one
7 of the boys ends up like, grabbing my pants and
8 ends up just yanking them like, as I'm trying to
9 put my pants on.

10 And so I began to get up and try to
11 basically defend myself because I had to point --
12 at that point, I just felt like they was just
13 trying to play with me just because I was new. So
14 as I'm trying to defend myself, that's when they
15 both end up just basically start attacking me.
16 And I -- I can say I defended myself pretty good
17 because like, they weren't really strong. But at
18 the same time, it was like, they were -- they were
19 upperclassmen. And I'm -- I'm a freshman. I'm
20 just starting to play football and so it's kind of
21 like, I'm just now getting used to all this. You
22 feel me?

23 So it's just -- it was just a weird,
24 sticky situation. But after that situation, I
25 felt like the way I defended myself, they never

1 messed with me ever again. But at the same time,
2 they got me pretty good. But like it -- they --
3 they -- they didn't mess with me ever again after
4 that because of how I defended myself, basically.

5 Q So do you remember the names of the --
6 of the students?

7 A Yeah. I remember -- I remember Jacob.
8 Yeah. I remember -- I remember Jacob and he -- he
9 had a buddy with him. He had a buddy with him.
10 It's like -- it's like Cool -- coo -- coo it's
11 C-O-O something. I don't really know his name
12 because like, I didn't know him. I just knew
13 Jacob. Because Jacob was in my locker room and he
14 was a part of the other locker room. But he was
15 in our locker room because sometimes frequently
16 like, the upperclassmen would change in the same
17 locker rooms with the underclassmen. So it'll be
18 like a frequent thing for all of us to like,
19 change and start -- start cutting up and stuff.
20 But it'll -- it'll be so like -- it'll be so --
21 what's the word I'm looking for? It was a lot of
22 us on the football team, so it would be kind of
23 hard to keep track of like, what was going on with
24 certain different areas around the locker room,
25 basically. So it was kind of easy for like, boys

1 to get away with doing gay stuff and boys to get
2 away with doing like, violent stuff. You get what
3 I'm saying?

4 Q Okay. Is it -- so in -- and we asked
5 this question -- put it to your attorney. And I
6 assume they got it from y'all, but -- the -- the
7 students were named, according to what your
8 attorney provided us, Cooper Wallace; is that
9 right?

10 A Right. Right.

11 Q That's right? Okay. And -- and then
12 Jacob Ridge--- Ridgill?

13 A Yeah. Yeah. Yeah.

14 Q Okay. So I mean, are they -- they're
15 your teammates; is that correct? Were they on the
16 football team as well?

17 A Right.

18 Q Okay. And -- and when you said they
19 attacked you, tell me exactly what -- what they
20 did.

21 A Well, I was in my locker room and I
22 was bent over and I was -- I was reaching in to
23 get my cleats out. And I was grabbing my girdle
24 and as I was putting on my girdle, that's when
25 Jacob came up to me and said that fresh meat

1 comment. And I kind of just laughed it off
2 because I was like, nah, he just -- he just being
3 weird. So I'm getting dressed, you know, trying
4 to dress up before I go out and practice. And as
5 I'm putting on my girdle, that's when his friend
6 came behind me. And then they both got like --
7 like -- one was like, on my ear. One was on my
8 left ear and one was on my right ear. And then my
9 locker room is like -- my locker is like, right
10 here.

11 So when I turned around, it was
12 basically like both of them right directly in my
13 face. So that's when -- that's when one proceeded
14 to just yank my girdle and -- and snatch it off.
15 And that's when we started like, fussing and
16 tussling for a little minute. And then that's
17 when Jacob, he had hit me. And then after he had
18 hit me, that's when it was just -- it was -- I was
19 just trying to defend myself from there on like, I
20 was just swinging it basically. But they both --
21 they both had ended up getting hits on me, though.
22 But it wasn't like -- it wasn't like, no painful
23 situation for me to be -- like I'm going -- all
24 right, I'm gonna to just -- I'm gonna just do
25 something about it. Because like, I had already

1 basically did something about it like, in the
2 moment. If you get what I mean.

3 Q I think so. What -- you said it
4 wasn't a painful situation. Is that what you
5 said?

6 A Not literally. I mean, it was, but
7 like as in -- I was saying since I'm tough, it
8 wasn't that painful. You get what I'm saying?

9 Q Can you say it a different way? I --
10 I don't quite understand what you're saying.

11 A I'm saying I have a high pain
12 tolerance, so it -- I mean, yeah, it hurt, but it
13 didn't really hurt like, their hits. That's --

14 Q Okay. All right. I can't remember if
15 your mom said that criminal charges were filed
16 against those two or not; do you know?

17 A Right.

18 Q No. Do -- do you know if that's --
19 whether there were --

20 A Oh.

21 Q -- criminal charges or not?

22 A Oh, I -- not that I know of.

23 Q Okay. Now, as you describe that
24 incident, it occurred before practice; is that
25 correct?

1 A Right. Right.

2 Q And by the way, I -- I didn't play
3 football. What's a girter?

4 A A girdle?

5 Q Oh, girdle.

6 A Oh, that's like -- it's like the
7 football shorts you slip on over your pants. It's
8 like, the -- the -- yeah, to stuff the knee pads
9 and stuff.

10 Q Okay. I got it. So your mom was
11 telling us about an incident where you came out of
12 the locker room -- oh, sorry. Let me strike that.
13 Let me go back. So after, you know, y'all are
14 tussling in the locker room, you -- you went out
15 on the field; is that right?

16 A Right.

17 Q All right. When -- you -- you said
18 that Jacob hit you. Did you tell anybody about
19 that?

20 A I mean, not initially, but I did -- I
21 did. Well, this is what happened. I -- I came
22 out the locker room after practice and I had
23 something on my face. It was like, a little whelp
24 or whatever. Like, you could tell somebody had
25 put their hands on my face basically. And my mom

1 noticed that and my football coach, Coach Lee, he
2 noticed it, but he didn't really pay no mind.
3 Like, I guess -- I guess, he wanted me to say
4 something about it. But he didn't really like --
5 when he did notice it, he asked me, he say -- he
6 said, hey, man like -- he was like, you okay? And
7 I was like, Yeah. I was like, why you ask? He
8 was like, I'm just asking. He was like, but did
9 you get that from practice? And I said -- I said,
10 no. And he was like -- he said, so where did you
11 get that from? And -- no, no, no, no. I'm
12 fast-forwarding. My bad, my bad. I'm
13 fast-forwarding. I'm going too fast. He didn't
14 -- he didn't ask me that question. He didn't ask
15 me that question. He just -- I think, I just
16 said, no. He was just like, all right, man.
17 Well, be safe. And that's when I walked to the
18 car. And that's when my mom noticed I had the
19 stuff on my face. That's right. Because she seen
20 the whelp on my face. And she asked me about it
21 and I told her what happened. And then she -- she
22 took pictures of it and then she took pictures of
23 my back because I also had like, a -- like, a
24 little scratch on my back.

25 Q All right. And just again, I'm going

1 to try and share my screen, so that you can -- so
2 I can show you what I think are those pictures, so
3 you can identify them for me.

4 A Right.

5 Q Let's see if I can do this again. All
6 right. I think I've -- let me figure out where it
7 is. No. Hang on. Sorry. All right. Are we
8 seeing that on the screen?

9 A Yeah.

10 Q You think that's the picture that --
11 that you were just talking about?

12 A Yeah.

13 Q All right. Now, I can't really see
14 anything from -- in this picture, can you?

15 A Yeah.

16 Q Where -- where -- where is the --

17 A It's right above my lip. Like, right
18 here. Like, right here.

19 Q Here-ish?

20 A Yes. Yeah. Yeah, right there. Right
21 there.

22 Q Okay. Now, were you bleeding?

23 A No. It was -- it was just like, a
24 hand print like -- like, two fingerprints. Like,
25 right here.

1 Q Okay. All right. I'll take your word
2 for it. And then I'm scrolling up. It looks like
3 this is a video, which I don't have the video.

4 A Yeah. That's -- that's my back.

5 Q And what is that, little -- little
6 scrapes, little scratches?

7 A Yeah.

8 Q All right.

9 A That's from ruffling and tussling.

10 Q Did you -- did you seek any -- I'll
11 stop sharing. Did you go to the doctor for any of
12 that?

13 A Yes, sir.

14 Q You did?

15 A Yes, sir.

16 Q Who -- who's -- which doctor did you
17 see for -- for that?

18 A I believe, Doctor -- I believe, I went
19 to Eastern Carolina Pediatrics and I believe, I
20 went to see Dr. Pritchard -- no, no, no. That's
21 my -- that's my psychologist. I can't remember my
22 doctor's name that -- around that time, but I
23 remember at -- I'm pretty sure it was Eastern
24 Carolina Pediatrics, I believe.

25 Q All right. So if -- we have those

1 records, so if you -- if you went and saw him, it
2 would be what, the day of, the day after? What do
3 you think?

4 A Well, I really don't know, to be
5 honest. I really don't know, to be honest.

6 Q All right. Did they give you any
7 medicine or anything?

8 A I don't remember.

9 Q Was there anybody else in the locker
10 room that -- that saw this happen? In that area
11 of the locker room, I should say.

12 A See, the thing is, the locker room is
13 so congested around this time to the point where
14 like, it was a lot going on in that one locker
15 room. Like, it was just -- it was a lot going on.
16 Like -- like, one corner, you'll see dudes over
17 there tap boxing. One corner, you'll see dudes
18 over there, like vaping. Like, it was -- it was
19 just a lot going on in there. And it was too
20 congested to actually tell if somebody knows what
21 -- what I was going on. You feel me? Or what I
22 had going on.

23 Q You -- you mean, like, somebody
24 wouldn't have been able to even see what was going
25 on with you. Is that what you're saying?

1 A Right. Because it -- it was just so
2 congested with players.

3 Q All right. Now, you started to say
4 that you told Coach Lee about this, but then you
5 sort of rewound and said maybe you didn't. So did
6 you -- did you tell him about the -- the -- the
7 attack by these two other students?

8 A I didn't tell him at first, but I did
9 eventually end up telling him like, I think --

10 Q Do you -- sorry. I'll let you keep
11 thinking.

12 A No, you -- you can go ahead. I'm just
13 thinking right now. You can go ahead.

14 Q Well, I mean, was it soon after or
15 days after or weeks after, you have any idea?

16 A I remember telling him like, while I
17 still had it on my face. I -- I remember that for
18 a fact. Because I remember him -- I'm getting
19 frustrated. I don't remember when I told him, but
20 I do remember having a brief conversation with him
21 about what happened because I remember -- I
22 remember telling him about the students. And he
23 -- it was almost as if like, he acted like he was
24 going to act upon it, but he didn't really take
25 any action -- full action. Because -- well, I

1 don't really know because -- but I just remember
2 -- I -- I remember having a brief conversation
3 with him about the situation. And I remember him
4 not doing anything. So that's probably why I
5 didn't even want to be bothered with him, but...

6 Q All right. Did -- so it sounds like
7 -- are you saying, you know he didn't do anything
8 to those other students or you don't know?

9 A No. Like I remember like, having a
10 brief conversation with him and I remember him not
11 doing anything as far as like, to the other
12 students like, when it came down to like,
13 punishment-wise.

14 Q Okay. And -- and you -- you would
15 know about that if that had happened?

16 A Right.

17 Q How -- how would you know about that?

18 A They would get in trouble. What do
19 you mean?

20 Q Well, how -- how would you know if
21 they got in trouble or not?

22 A I mean, well, usually when situations
23 with the football players if -- if -- if somebody
24 like, does something wrong and the coach finds
25 out, what he usually does is he punishes the

1 player by making him roll the entire field. Like,
2 he'll make you roll like, on your back like,
3 across the whole entire 100-yard line. And they
4 didn't roll, so I knew they didn't get in trouble.

5 Q All right. And did you tell me you
6 came out -- came out of that feeling good because
7 you were able to protect yourself?

8 A I did not feel good after that. What
9 do you mean?

10 Q I thought you -- you felt like you
11 defended yourself?

12 A Yeah. Well, I said I beat up -- what
13 you mean?

14 Q I -- I -- no, no. I mean, I -- that's
15 what I heard from -- that's what I heard you say.
16 And if that's not what you said, then that's not
17 what you said.

18 A Okay. All right.

19 Q All right. Is this an issue that
20 you've talked with Ms. Pritchard-Boone about?

21 A Right.

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

23 A Oh, yes. Yes.

24 Q Okay. On more than one occasion?

25 A Right.

8:14

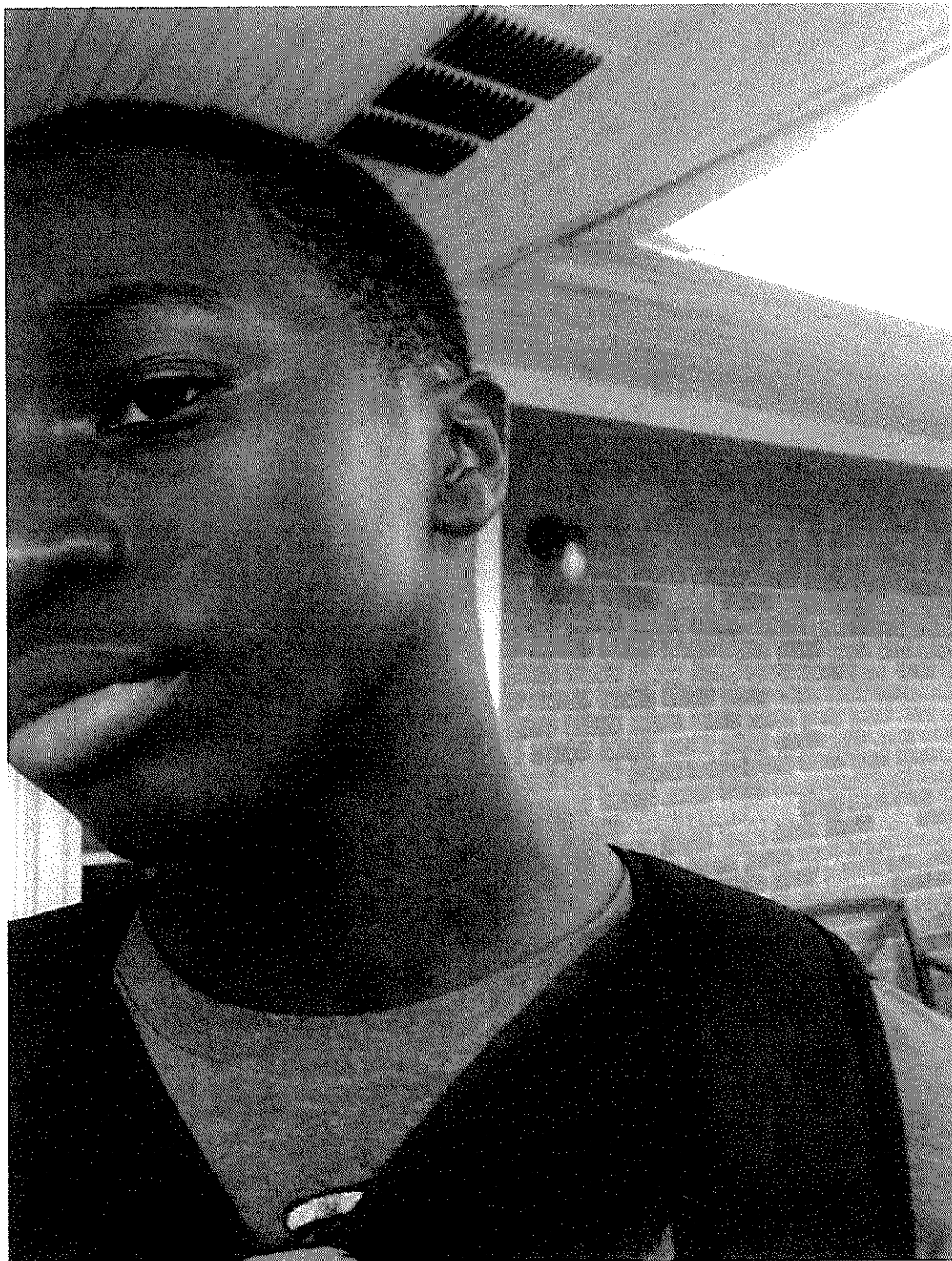
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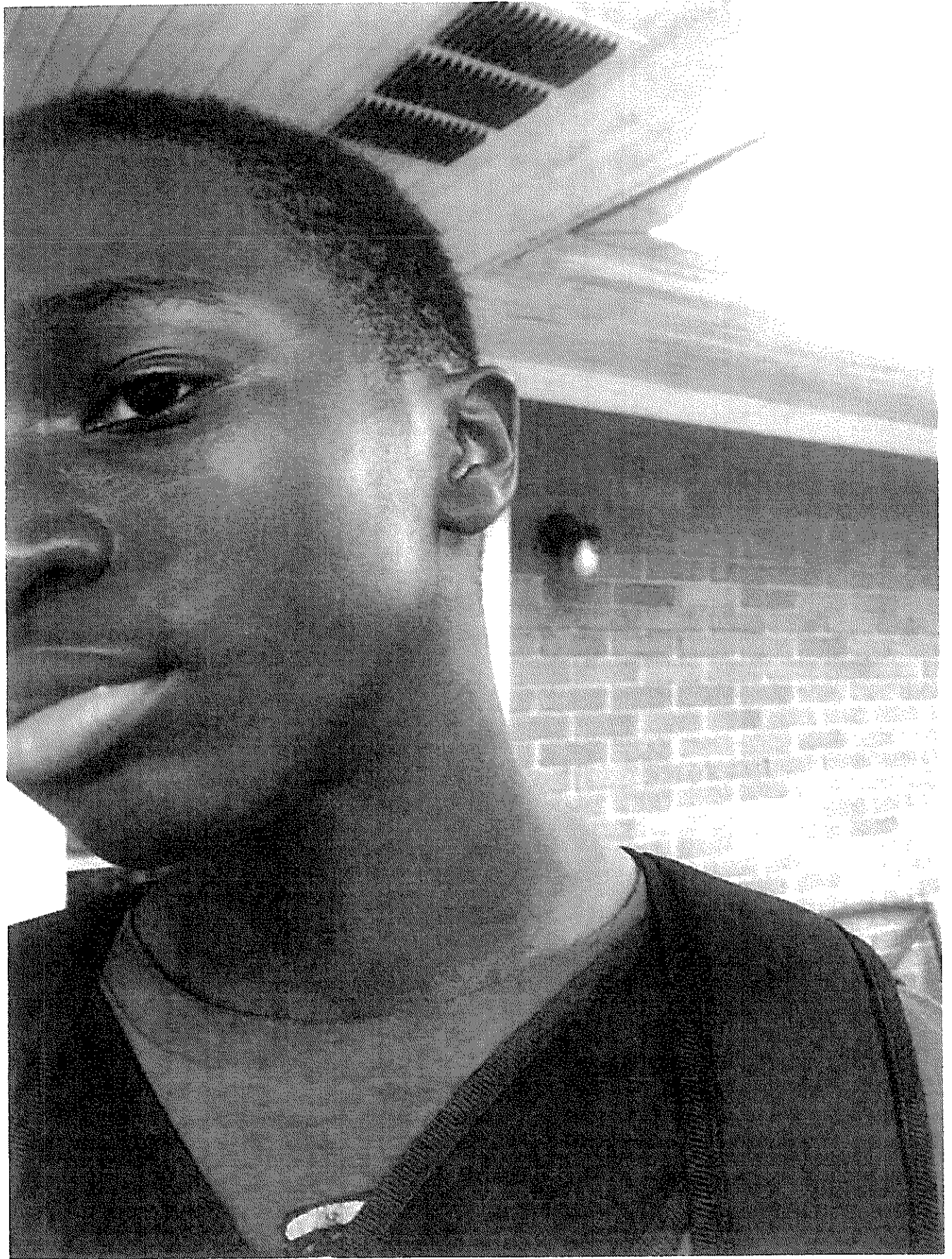


Home

October 17, 2018 6:14 PM

Edit





INCIDENT REPORT
Florence County Sheriff Office

NCIC	
INQ.	ENTD.

INCIDENT TYPE										COMPLETED										FORCED ENTRY										PREMISE TYPE										UNITS ENTERED										TYPE VICTIM																																																																															
1. 13B - Assault and Battery 3rd Degree Minor Injury - 16-03-0600(E)(1)(a)										☒ YES ☐ NO										☐ YES ☐ NO										53(School - Elementary/Secondary)																				☐ Individual ☐ Business ☐ Financial In ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.																																																																															
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AGENCY I.D.
SC0210000

SUPPLEMENTAL INCIDENT REPORT
Florence County Sheriff Office

CASE NUMBER

2019-02-0194

NCIC

INQ. ENT.D.

☐ ORIGINAL REPORT ☐ MODIFIES ORIGINAL	☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE	☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY	PAGE <u>2</u> of <u>3</u> PAGES

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)			VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3			RESIDENT * J S O U	RACE	SEX	AGE	D.O.B.	ETH
	☐ VICTIM #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ SUBJECT #	ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.	HOME PHONE D E	EMPLOYER PHONE D E			
	☐ RUNAWAY	☐ VICTIM NO. VISIBLE INJURY: ☐ NO ☐ YES			☐ COMPLAINT OF NON-VISIBLE INJURIES ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ ☐ NONE		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT		☐ ALONE		
	☐ WANTED	EXPLAIN			☐ NO ☐ YES		DRUGS: ☐		☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSISTED		
	☐ WARRANT	☐ SUBJECT NO. USING: ALCOHOL ☐ DRUGS ☐ TYPE:											
	☐ ARREST	COMPUTER EQUIP. ☐ NONE ☐											
	☐ JAIL												
	☐ SUMMONS												
	☐												

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)			VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3			RESIDENT * J S O U	RACE	SEX	AGE	D.O.B.	ETH
	☐ VICTIM #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ SUBJECT #	ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.	HOME PHONE D E	EMPLOYER PHONE D E			
	☐ RUNAWAY	☐ VICTIM NO. VISIBLE INJURY: ☐ NO ☐ YES			☐ COMPLAINT OF NON-VISIBLE INJURIES ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ ☐ NONE		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT		☐ ALONE		
	☐ WANTED	EXPLAIN			☐ NO ☐ YES		DRUGS: ☐		☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSISTED		
	☐ WARRANT	☐ SUBJECT NO. USING: ALCOHOL ☐ DRUGS ☐ TYPE:											
	☐ ARREST	COMPUTER EQUIP. ☐ NONE ☐											
	☐ JAIL												
	☐ SUMMONS												
	☐												

SECKA RELATED THAT HER SON HAD AN INJURY TO THE LEFT SIDE OF HIS FACE, A HANDPRINT AND A BUSTED LIP. SECKA ASKED HER SON HOW HE GOT THE INJURIES. HER SON, THE VICTIM MOUDOU-YASEN SECKA, TOLD HIS MOTHER THAT THEY WERE ROUGH HOUSING AROUND IN THE LOCKER ROOM AFTER PRACTICE. HER SON ALSO TOLD HER THAT THEY TOOK HER SON'S LOUIS VUITTON BELT AND HIS VANS SHOES. SECKA DID TAKE PHOTOS OF HER SON'S FACE.

SECKA ALSO RELATED THAT THE NEXT DAY THAT SHE NOTICED INJURIES TO HER SON'S BACK. SHE DESCRIBED THESE INJURIES AS SCRATCH MARKS ON HIS UPPER RIGHT BACK AND SHOULDER AREA.

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	

VEH/GUN/VEH	STATUS	TYPE	VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.	
	☐ STOLEN	☐ VEHICLE	SERIAL AND/OR OWNER APPLIED NO.		STATE	
	☐ RECOVERED	☐ GUN	YEAR OF REGISTRATION	YEAR OF EXPIRATION	YEAR	MAKE
	☐ FOUND	☐ BOAT	MODEL		STYLE	COLOR
	☐ TOWED	☐ LICENSE PLATE	N/C NO.		DENOMINATION	ISSUER
	☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS	MISCELLANEOUS		SECURITIES DATE	
	☐ VICTIM	☐ ARTICLE				

PROPERTY EST.	TYPE (GROUP)					TOTAL VALUE
	STOLEN					
	DAMAGED					
	BURNED					
	RECOVERED					
	SEIZED					
	COUNTERFEIT					

ADMINISTRATIVE	SUBJECT IDENTIFIED ☐ YES ☐ NO		SUBJECT LOCATED ☐ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
	☐ UNFOUNDED		☐ NO PROSECUTION		☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER	
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED		4. ☐ VICTIM DECLINES COOPERATION
	5. ☐ JUVENILE - NO CUSTODY		REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER
	0194 - Chad Collins		02/08/2019		0194	1311 - Charles Walker	02/11/2019

FOLLOW-UP INVESTIGATION OFFICER

☐ YES ☐ NO

AGENCY I.D.
SC0210000

SUPPLEMENTARY INCIDENT REPORT
Florence County Sheriff Office

CASE NUMBER

2019-02-0194

NCIC

INQ. ENTD.

☐ ORIGINAL
REPORT
☐ MODIFIES
ORIGINAL

☐ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS
☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 3 of 3 PAGES

SHE DID SHOW ME PHOTOS OF THE REPORTED INJURIES.

SECKA ALSO RELATED THAT SHE MADE CONTACT WITH A COACH OF WPHS FOOTBALL, JEFF LEE. SHE STATED THAT HE DID NOT RESPOND TO HER.

THERE IS NO SUSPECT INFORMATION THAT WAS GIVEN AT THE TIME OF THE REPORT.

NARRATIVE

ADMINISTRATIVE

SUBJECT IDENTIFIED ☐ YES ☒ NO		SUBJECT LOCATED ☐ YES ☒ NO		☒ ACTIVE ☐ UNFOUNDED	☐ ADM. CLOSED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY							
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER
0194 - Chad Collins		02/08/2019	0194	1311 - Charles Walker		02/11/2019	
				FOLLOW-UP INVESTIGATION OFFICER ☐ YES ☒ NO			



Executive Director Freddie B. Pough

P.O. Box 21069
Columbia, SC 29221-1069

Governor Henry McMaster

www.djj.sc.gov



May 18, 2021

Ms. Secka Hannah
503 W. Darlington St.
Florence, SC 29501

Re: Modou Yasen Secka (JID 465885)
Charge(s): Assault: Assault & Battery 3rd degree

Dear Ms. Hannah:

The Department of Juvenile Justice has learned that you have been the victim of a crime. Please know that law enforcement has charged the above juvenile(s) with a criminal offense.

It is important for us to understand how this crime may have impacted you or your family. Any additional information you could provide concerning your victimization or the incident would be helpful.

Please call our office at (843) 665-3080 within 10 days from the date of this letter if you wish to provide any input. You may also call our central Office of Victim Services in Columbia toll free at 1-888-224-6165 if you have questions that the local DJJ office can not answer. Please keep this letter so that you may refer to the appropriate juvenile(s) when contacting our office.

It is possible that other agencies will be contacting you about this incident. I would encourage you to complete and return any forms they may need to ensure your rights as a victim. Please notify us if your address or phone number changes.

On behalf of the Department of Juvenile Justice, I would like to offer my assistance.

Sincerely,

Lacharda Green
Department of Juvenile Justice

~~~~~EXHIBIT C~~~~~

1 other teacher, well, they got into kind of like an
2 argument, a little argument that he was that
3 came up between him and her when they were testing.

4 Q: What did you witness about the interaction with the
5 student with the school resource officer?

6 A: He was saying that he wasn't, she wanted him to be
7 quiet, she was saying that he was just making noises
8 and talking back to her, when she said be quiet, she
9 meant be quiet.

10 Q: And was the school resource officer present during
11 the questioning of the cell phone incident?

12 A: Oh, no.

13 Q: No further questions.

14 HEARING OFFICER: I have a question.

15 EXAMINATION OF MS. JOHNSON BY HEARING OFFICER

16 Q: Ms. Johnson, have you
17 other children had
18 witness any incident
19 attacked?

20 A: One occurred, one had
21 at work yet. It hap
22 during one morning a
23 to go in the office a
24 kept, he told the principal this boy kept bothering
25 him, picking at him every morning, and we didn't

DPH #1 (Daisy Dent)

Daisy Johnson

(one-to-one)

Assault / Harassment /

Bullying

(4/10/2019)

1 know that, the principal didn't know that, and
2 knocked his glasses off and stuff like that. Now I
3 didn't even know what was going on, but he said that
4 happened, the boy kept bothering him every morning,
5 but I didn't see it because I wasn't there. We
6 can't clock until 8:00 o'clock, but he said it
7 happened like around about 7:30 like during the
8 mornings, and they have the other supervision all
9 around, but I wasn't there.

10 Q: So the children got into a physical altercation?

11 A: Yes, him and this other boy.

12 Q: Any others that you can think of?

13 A: I can't think of none other. It almost been
14 well, there's another one when I was on my break,
15 when I got back they had already they was
16 already gone out of the classroom. It was in the,
17 it was like during the let's see, how that
18 thing go, how it go, when I got back this little boy
19 just came in the classroom and he was sitting in the
20 back, but when I went to lunch, the coach asked I go
21 at that time every morning, I went to lunch, when I
22 got back this little boy was sitting behind
23 M.Y.N.S., and how it got started was the little boy,
24 the coach asked M.Y.N.S. to take his hood off,
25 M.Y.N.S. took it off and put it back on again, and

1 when he put the hood back on again, from my
2 understanding the little boy left from the back and
3 came and sat behind him and told him if he put it
4 back on again, he told the coach that he would take
5 it off, and that's when M.Y.N.S. got up. When
6 M.Y.N.S. got up, the boy hit him in the stomach, so
7 I think they gave the little boy OSS because he had
8 started it. M.Y.N.S. said he knew that was going to
9 happen because he used to be there, he knew that boy
10 was going to do that because the boy was kind of
11 fast like, fast mouth and started that argument.

12 Q: Did you ever witness any situation where multiple
13 children were harassing him?

14 A: Two or three, recently two or three of them started
15 bothering him, they started talking about like shoes
16 and stuff, and their clothing and this little girl
17 bust out and say that M.Y.N.S. told the little boy,
18 the little boy sat beside him because they had
19 quarrels from the other school, saying little boy
20 sits beside him again, started an argument about
21 clothes and shoes and stuff and this little girl
22 burst out to M.Y.N.S. that you can't bother him,
23 because that's my friend, and then they got all
24 loud, the little boy got all loud because they was
25 in a fight before at Sneed, but this time they

1 didn't because we stopped it, we stopped them
2 because the boy jumped up and was ready to fight,
3 but I told them no, they can't do that. There won't
4 be a fight. He wanted to fight M.Y.N.S., but
5 M.Y.N.S. didn't want to fight, but he wanted to
6 fight. This same little boy just started again.
7 They got loud when they got out of class, a lot of
8 cursing and stuff, this other boy, but M.Y.N.S.
9 maintained. I just took him on to class. They just
10 bother him a lot by petty stuff, M.Y.N.S. is a
11 friendly person, and they love to jump in on him all
12 the time and start this because it comes from
13 before.

14 Q: Have you ever witnessed a situation where a school
15 official physically assaulted M.Y.N.S.?

16 A: No, I never. M.Y.N.S., well, not here, not here.

17 **HEARING OFFICER:** Do either of you have
18 questions as a result of my questions?

19 **MS. STOUT:** No, I do not.

20 **MR. REAGLE:** No questions.

21 **HEARING OFFICER:** Any other questions for Ms.
22 Johnson?

23 **MS. STOUT:** No.

24 **HEARING OFFICER:** Thank you, Ms. Johnson,
25 appreciate your testimony. You're excused.

~~~~~EXHIBIT F~~~~~



314 S. McQueen Street, Florence, South Carolina 29501 (843)407-4440 office phone (843)407-4461 fax

PSYCHOLOGICAL ASSESSMENT

Name: Moudou-Yasen Secka

Date of Birth: 01.07.2004

Dates of Evaluation: 6.30.2021, 7.7.2021

Evaluator: Lea Pritchard-Boone, PhD

Referral & Background Information

Yasen is a 17-year-old male parent-referred for a trauma assessment. Yasen lives with his mother, Hannah Secka, in South Carolina. Yasen has been seen therapeutically for different treatment courses from 2017-present for emotional and developmental concerns.

Developmental & Medical History

Mrs. Secka prenatal history was normal until labor and delivery. Mrs. Secka's labor was augmented with Pitocin and her epidural failed to manage her pain. She was then placed on a Morphine drip and a prolonged labor lead to fetal distress. Mrs. Secka's cervix failed to dilate and an emergency caesarian was performed. At the delivery it was noted that the amniotic fluid was stained with meconium and Yasen required resuscitation. Yasen also sustained head, facial, and nasal trauma directly related to prolonged labor and becoming wedged in the vaginal canal. Furthermore, there was evidence of a Traumatic Brain Injury (TBI) with a depressed skull fracture and frontal lobe damage. He also has craniosynstosis of the Metopic suture which is linked to neurodevelopmental delays. Yasen also had a Neonatal Hypoxic-Ischemic event. The residual results from the trauma/stroke includes cerebral palsy, left sided weakness, headaches, seizures, obstructive airway and swallowing difficulty, chronic ear infections, headaches, sleep apnea, and narcolepsy. Medically, Yasen is prescribed Adderral 10mg for symptoms of ADHD, Topomax 30mg for a seizure disorder, Zoloft 25 mg for symptoms of depression, Naproxen 500mg for migraine headaches, Albuterol Sulfate inhaler for his asthma/COPD, and a CPAP Machine for sleep apnea.

Developmentally, Yasen had poor muscle and extremities were stiff for which he received physical therapy. He received occupational therapy addressing his swallowing and feeding problems. Also, his face was described as "distorted". He also underwent ENT surgery to correct his hearing problems at 15 months. There was evidence of chronic pain or early developmental delays characterized by the following behaviors: head banging, rolling, rocking, and slapping himself in the face and ears. At 1-year-old, he developed a wide based gait. He mastered turning over at 10 months, walked at 16 months and was clumsy falling frequently. His language development was delayed, not babbling until 15 months and achieving sentences at 3 years. He continued to drool profusely and was still unable to chew and swallow. He preferred not to be touched, darkness calmed him, and smells, sound and texture of foods often bothered him. As a

Current Evaluation

Diagnostic Interview

Child Interview

Behavior Assessment System for Children, Third Edition (BASC-3), Adolescent Report

Trauma Symptom Inventory, Second Edition (TSI-2)

Child and Adolescent Trauma Screen -Youth Report (CATS)

Behavioral Observations

Yasen presented as an alert 17-year-old male who was appropriately groomed and dressed. He was fully oriented. Speech was quiet but clear. Social/emotional language was limited. There was no evidence of thought disturbance or responding to internal stimuli. Eye contact was not socially modulated and not well integrated with gestures and speech. His mood was withdrawn, though he was cooperative and responsive to the interview questions. His affect was flat. Results are thought to be an accurate assessment of his abilities.

Child Interview (6.30.2021): During the interview Yasen described himself as sad and stressed much of the time. He rarely discusses his feelings with others other than his mother and his therapist. He denied thoughts of harming himself or others. He discussed significant symptoms of post-traumatic stress and discusses several traumatic events. He is most bothered by nightmares, intrusive thoughts, and moments of dissociation. He is persistently bothered by fears of being shot, concerns of being judged/wrongly accused by police, and thoughts of the world as an unsafe place to live. He fully endorses symptoms of depression and anxiety at the clinical level as well. Specifically, he finds himself scared at moments without understanding why, he experiences negative cognitions about himself and the world, and he finds it difficult to trust and engage others.

ASSESSMENT SCORES

Behavior Assessment System for Children, Third Edition (BASC-3), Self Report

The Behavior Assessment System for Children, Third Edition (BASC-3), is a questionnaire providing behavioral, emotional, and adaptive indicators for children and adolescents from ages 3 to 18 years. T-scores have a M=50, SD=10. A T-score of **70 or higher** indicates *clinical significance* and a T-score of **60 to 69**, indicates **borderline clinical significance**. On the adaptive subscales and personal adjustment, *clinical significance* is indicated by a T-score of **30 or below** and **borderline clinical significance** is indicated by a T-score of **40 to 31**.

Clinical Scales	Yasen	Description
School Problems	82	<i>Clinically Significant</i>
Attitude to School	72	<i>Clinically Significant</i>
Attitude to Teachers	85	<i>Clinically Significant</i>
Sensation Seeking	64	At-Risk for Significance

Based on Yasen's responses to validity items on the TSI-2, the results are deemed valid and interpretable. T-scores, percentiles, and descriptions are below.

TSI-2

Subscales	T-Score	%ile	Description
Validity Scales			
Response Level	45	60	Valid
Atypical Response	83	97	Valid
Factor			
Self-Disturbance	62	76	Approaching Significance
Trauma	76	99	Clinically Significant
Clinical Scale			
Anxious-Arousal	63	87	Approaching Significance
<i>Anxiety</i>	59	81	<i>Non-Significant</i>
<i>Hyperarousal</i>	68	96	Clinically Significant
Depression	61	85	Approaching Significance
Anger	65	90	Clinically Significant
Intrusive Experiences	75	98	Clinically Significant
Defensive Avoidance	77	99	Clinically Significant
Dissociation	77	99	Clinically Significant
Somatic Preoccupations	59	81	<i>Non-Significant</i>
<i>Pain</i>	69	95	Clinically Significant
<i>General</i>	49	56	<i>Non-Significant</i>
Sexual Disturbance	60	83	Approaching Significance
<i>Sexual Concerns</i>	62	84	Approaching Significance
<i>Dysfunctional Behavior</i>	51	66	<i>Non-Significant</i>
Suicidality	54	83	<i>Non-Significant</i>
<i>Ideation</i>	51	79	<i>Non-Significant</i>
<i>Behavior</i>	48	90	<i>Non-Significant</i>
Insecure Attachment	63	86	Approaching Significance
<i>Relational Avoidance</i>	70	96	Clinically Significant
<i>Rejection Sensitivity</i>	53	64	<i>Non-Significant</i>
Impaired Self-Reference	60	81	Approaching Significance
<i>Reduced Self-Awareness</i>	68	94	Clinically Significant
<i>Other-Directedness</i>	48	48	<i>Non-Significant</i>
Tension Reduction	61	82	Approaching Significance

Results of the TSI-2 indicate that Yasen reports experience several significant trauma-related symptoms. He reports clinically significant hyperarousal which is often associated with hypervigilance, irritability, and sleep disturbance. He experiences clinically significant anger which is associated with being persistently agitated, with having a bad temper, and with being moody. Clinically significant intrusive experiences and dissociation were also reported. Such elevations are consistent with flashbacks, re-experiencing trauma moments, feeling overwhelmed, and feeling out of touch with reality. Significant defensive avoidance was reported

quality and nightmares/disrupted sleep. His diagnosis of PTSD is fully supported by TSI-2, CATS, BASC-3 self-report questionnaire and diagnostic interview results.

Notably, Yasen has a trauma history of several traumas which can create an exponentially more complicated disorder to treat. When multiple traumas are experienced in childhood/adolescence, the trauma experience becomes woven into the development of the individual. Research has shown that there is a link between experience of repeated trauma and many life-long impairments. Victims of multiple traumas have a higher incidence of absences, aggression, noncompliance and nonaggressive conduct disorders. Victims of multiple traumas have an increased likelihood of substance abuse and addiction, and a higher likelihood of a serious suicide attempt during adulthood compared to non-traumatized peers. Children are significantly more likely to display symptoms of anxiety and depression than non-traumatized children. As an adult, he is more likely to experience vocational and interpersonal difficulties, and a feeling of social incompetence. Victims are less likely to attend college compared to non-traumatized peers, and to suffer a higher incidence of social problems, depression, and pervasive PTSD symptoms.

Further, children with multiple other psychological disorders are even more likely to suffer from the above mentioned life-long psychological problems than those with fewer risk factors. Yasen has a diagnosis of an autism spectrum disorder which complicates therapeutic gain and other social-emotional growth. Given his pervasive developmental disorder and the impact of multiple traumas on his already compromised development, he will likely require mental health services throughout his lifespan. He will also likely require significantly more non-mental health healthcare interventions given his medical problems, somatic presentation of trauma (i.e. pain, sleep disruption), and physical impact of prolonged trauma processing. Further, it is important to note that some of his trauma experience involved in school environment, which again is woven into his experience impacting his feelings towards academic environments moving forward.

Recommendations

1. It was recommended by the evaluator that Yasen be treated with Trauma-Focused Cognitive-Behavioral Therapy (TF-CBT) to treat his symptoms. Typical TF-CBT treatment lasts between 10 to 16 weeks/sessions, however there is variability with regards to this estimation. The age of onset of traumas (adolescence) and his neurodevelopmental disorders predict a significantly longer duration of treatment to minimize the likelihood of future setbacks and psychological difficulties. It is important to note that while Yasen remains in school, he remains in the environment where he experienced multiple traumas which further exacerbates his distress and triggers his anger/aggressive response.
2. Yasen should be reevaluated annually to inform his intervention plan.

Lea Pritchard-Boone, PhD

Lea Pritchard-Boone, Ph.D.
Licensed Clinical Psychologist

Client Billing Statement

Seasons Psychology Associates, LLC
314 S. McQueen St
Florence SC 29501
Ph: 843-407-4440

Date 9/8/2022
Statement No 1

To:

Moudou Secka
503 W. Darlington St.
Apt. B
Florence, SC 29501

Name		Address		Client Code				
Moudou Secka		503 W. Darlington St. Apt. B Florence SC 29501		Secka,Moudou-498442				
Date of Service	Service	Charges	Insurance Payment	Patient Payment	Adj	Copay	Pending Insurance	Client Balance
	Prev Balance						\$0.00	\$0.00
06/04/2018	Session	\$160.00	\$108.86	\$0.00	\$51.14	\$0.00	\$0.00	\$0.00
06/08/2018	Session	\$250.00	\$247.32	\$0.00	\$2.68	\$0.00	\$0.00	\$0.00
11/19/2018	Session	\$160.00	\$108.86	\$0.00	\$51.14	\$0.00	\$0.00	\$0.00
12/12/2018	Session	\$160.00	\$108.86	\$0.00	\$51.14	\$0.00	\$0.00	\$0.00
12/14/2018	Session	\$250.00	\$247.32	\$0.00	\$2.68	\$0.00	\$0.00	\$0.00
01/21/2019	Session	\$250.00	\$224.63	\$0.00	\$25.37	\$0.00	\$0.00	\$0.00
02/04/2019	Session	\$200.00	\$163.29	\$0.00	\$36.71	\$0.00	\$0.00	\$0.00
02/22/2019	Session	\$295.00	\$210.61	\$0.00	\$84.39	\$0.00	\$0.00	\$0.00
03/14/2019	Session	\$250.00	\$247.32	\$0.00	\$2.68	\$0.00	\$0.00	\$0.00
03/19/2019	Session	\$335.00	\$265.04	\$0.00	\$69.96	\$0.00	\$0.00	\$0.00
05/06/2019	Session	\$175.00	\$156.18	\$0.00	\$18.82	\$0.00	\$0.00	\$0.00
06/24/2019	Session	\$335.00	\$265.04	\$0.00	\$69.96	\$0.00	\$0.00	\$0.00
09/19/2019	Session	\$250.00	\$247.32	\$0.00	\$2.68	\$0.00	\$0.00	\$0.00
10/30/2019	Session	\$335.00	\$265.04	\$0.00	\$69.96	\$0.00	\$0.00	\$0.00
12/12/2019	Session	\$335.00	\$265.04	\$0.00	\$69.96	\$0.00	\$0.00	\$0.00
01/09/2020	Session	\$375.00	\$319.47	\$0.00	\$55.53	\$0.00	\$0.00	\$0.00
02/24/2020	Session	\$175.00	\$156.18	\$0.00	\$18.82	\$0.00	\$0.00	\$0.00
03/04/2020	Session	\$335.00	\$265.04	\$0.00	\$69.96	\$0.00	\$0.00	\$0.00
03/05/2020	Session	\$250.00	\$224.63	\$0.00	\$25.37	\$0.00	\$0.00	\$0.00
03/18/2020	Session	\$295.00	\$210.61	\$0.00	\$84.39	\$0.00	\$0.00	\$0.00

Page 1 of 3

PLT FCSDO 000038

ELECTRONICALLY FILED - 2024 Feb 20 12:01 PM - FLORENCE - COMMON PLEAS - CASE#2021CP2102121

03/20/2020	Session	\$250.00	\$247.32	\$0.00	\$2.68	\$0.00	\$0.00	\$0.00
04/01/2020	Session	\$360.00	\$265.04	\$0.00	\$94.96	\$0.00	\$0.00	\$0.00
05/05/2020	Session	\$160.00	\$108.86	\$0.00	\$51.14	\$0.00	\$0.00	\$0.00
05/12/2020	Session	\$160.00	\$108.86	\$0.00	\$51.14	\$0.00	\$0.00	\$0.00
05/26/2020	Session	\$160.00	\$108.86	\$0.00	\$51.14	\$0.00	\$0.00	\$0.00
06/24/2020	Session	\$335.00	\$265.04	\$0.00	\$69.96	\$0.00	\$0.00	\$0.00
07/08/2020	Session	\$160.00	\$108.86	\$0.00	\$51.14	\$0.00	\$0.00	\$0.00
07/22/2020	Session	\$295.00	\$210.61	\$0.00	\$84.39	\$0.00	\$0.00	\$0.00
08/05/2020	Session	\$160.00	\$108.86	\$0.00	\$51.14	\$0.00	\$0.00	\$0.00
09/02/2020	Session	\$160.00	\$108.86	\$0.00	\$51.14	\$0.00	\$0.00	\$0.00
09/16/2020	Session	\$175.00	\$156.18	\$0.00	\$18.82	\$0.00	\$0.00	\$0.00
09/17/2020	Session	\$200.00	\$163.29	\$0.00	\$36.71	\$0.00	\$0.00	\$0.00
10/14/2020	Session	\$200.00	\$163.29	\$0.00	\$36.71	\$0.00	\$0.00	\$0.00
11/23/2020	Session	\$335.00	\$265.04	\$0.00	\$69.96	\$0.00	\$0.00	\$0.00
12/02/2020	Session	\$200.00	\$163.29	\$0.00	\$36.71	\$0.00	\$0.00	\$0.00
12/30/2020	Session	\$335.00	\$265.04	\$0.00	\$69.96	\$0.00	\$0.00	\$0.00
01/13/2021	Session	\$160.00	\$108.86	\$0.00	\$51.14	\$0.00	\$0.00	\$0.00
02/10/2021	Session	\$160.00	\$108.86	\$0.00	\$51.14	\$0.00	\$0.00	\$0.00
02/10/2021	Session	\$175.00	\$156.18	\$0.00	\$18.82	\$0.00	\$0.00	\$0.00
02/18/2021	Session	\$160.00	\$108.86	\$0.00	\$51.14	\$0.00	\$0.00	\$0.00
03/03/2021	Session	\$200.00	\$163.29	\$0.00	\$36.71	\$0.00	\$0.00	\$0.00
03/10/2021	Session	\$160.00	\$108.86	\$0.00	\$51.14	\$0.00	\$0.00	\$0.00
03/10/2021	Session	\$175.00	\$156.18	\$0.00	\$18.82	\$0.00	\$0.00	\$0.00
04/13/2021	Session	\$200.00	\$163.29	\$0.00	\$36.71	\$0.00	\$0.00	\$0.00
05/27/2021	Session	\$120.00	\$54.43	\$0.00	\$65.57	\$0.00	\$0.00	\$0.00
06/22/2021	Session	\$175.00	\$156.18	\$0.00	\$18.82	\$0.00	\$0.00	\$0.00
06/30/2021	Session	\$200.00	\$163.29	\$0.00	\$36.71	\$0.00	\$0.00	\$0.00
07/07/2021	Session	\$200.00	\$163.29	\$0.00	\$36.71	\$0.00	\$0.00	\$0.00
12/01/2021	Session	\$175.00	\$156.18	\$0.00	\$18.82	\$0.00	\$0.00	\$0.00
12/08/2021	Session	\$200.00	\$163.29	\$0.00	\$36.71	\$0.00	\$0.00	\$0.00
12/22/2021	Session	\$200.00	\$163.29	\$0.00	\$36.71	\$0.00	\$0.00	\$0.00
06/20/2022	Session	\$200.00	\$163.29	\$0.00	\$36.71	\$0.00	\$0.00	\$0.00
06/24/2022	Session	\$200.00	\$163.29	\$0.00	\$36.71	\$0.00	\$0.00	\$0.00
Closing Balance		\$11875.00	\$9544.87	\$0.00	\$2330.13	\$0.00	\$0.00	\$0.00

Comments:

Client Billing Statement

Bask Psychological Services
401 W. Cheves St
Florence SC 29501-6149
Ph: 843-621-0263

Date
6/5/2024

Statement No
1

To:

Hannah L Johnson Secka
503 W Darlington Street #B
Florence, SC 29501

Name		Address					Client Code	
Hannah L Johnson Secka		503 W Darlington Street #B Florence SC 29501					JohnsonSecka,Hannah-765 735	
Date of Service	Service	Charges	Insurance Payment	Patient Payment	Adj	Copay	Pending Insurance	Client Balance
Prev Balance							\$0.00	\$0.00
12/07/2022	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00
01/26/2023	Session	\$400.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$400.00
02/07/2023	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00
02/15/2023	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00
02/28/2023	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00
03/06/2023	Session	\$200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$200.00
03/14/2023	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00
03/22/2023	Session	\$200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$200.00
03/28/2023	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00
04/04/2023	Session	\$150.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$150.00
04/20/2023	Session	\$200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$200.00
05/02/2023	Session	\$200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$200.00
05/08/2023	Session	\$200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$200.00
05/15/2023	Session	\$200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$200.00
05/23/2023	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00
05/31/2023	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00
06/15/2023	Session	\$200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$200.00
06/22/2023	Session	\$200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$200.00
07/20/2023	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00
08/24/2023	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00

09/08/2023	Session	\$200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$200.00
10/25/2023	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00
02/13/2024	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00
03/14/2024	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00
05/01/2024	Session	\$160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$160.00
	Closing Balance	\$4590.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,590.00

Comments:

For proper credit, please include this portion with your payment.
Please make checks payable to: Bask Psychological Services

Statement No: 1

Statement Date: 6/5/2024

Name: Hannah L
Johnson Secka

Balance Due: 4,590.00

Copay Due: \$0.00

Amount Enclosed: _____

Bask Psychological Services
401 W. Cheves St
Florence SC 29501-6149

Due Date: On Receipt

Thank You