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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of  
Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court

Judge

---

Appellate Case No.: 2025-002176

Case No. 2025-CP-10-01024

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Teqyah Campbell and Lamona Armstrong as  
parent and Legal Guardian of R.C., a minor                      Appellants,

v.

City of Isle of Palms and Isle of Palms  
Police Dept.,    Respondents,

---

**RECORD ON APPEAL**

---

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Tegyah Campbell et al  
PLAINTIFF(S)

Isle Of Palms City Of et al  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

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

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

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

Defendant Isle of Palm's Motion to Dismiss is GRANTED.  
Attorney James Edward Haarsgaard is to prepare an order.

**ORDER INFORMATION**

This order  ends  does not end the case.  See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/05/2025 .

Parent And Legal Guardian Of R.C., Minor

**NAMES OF TRADITIONAL FILERS SERVED BY MAIL**

**Court Reporter:**

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

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Charleston Common Pleas

**Case Caption:** Teqyah Campbell , plaintiff, et al VS Isle Of Palms City Of ,  
defendant, et al

**Case Number:** 2025CP1001024

**Type:** Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-08-05 13:33:18 page 3 of 3



incident, the gunman was charged with five counts of attempted murder. See Charleston County Public Index, Davion Singleton, <https://jcmsweb.charlestoncounty.org/PublicIndex/PISearch.aspx> (last visited July 28, 2025). The Plaintiffs filed this action against the City and its Police Department on February 24, 2025 through which they assert a single cause of action for negligence/gross negligence.

## II. DISCUSSION

Defendants assert that they are entitled to the immunities and protections under the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.* The Act is the exclusive civil remedy available for tort claims against a governmental entity. See S.C. Code Ann. 15-78-20(b); Murphy v. Richland Mem'l Hosp., 317 S.C. 560, 455 S.E. 2d 688 (1995). The Act contains exceptions to the government's waiver of immunity and specifically 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 actions of third persons." S.C. Code Ann. 15-78-60(20).

In this case, Plaintiffs' Complaint alleges that Plaintiffs were injured by a high school student when the student discharged his firearm into a crowd on a public beach. The Plaintiffs do not allege that the high school student was an employee of the Defendants, and Plaintiffs' counsel confirmed during the hearing on Defendants' Motion that the Plaintiffs' injuries were the result of the high school student's criminal actions. Public court records reflect that the high school student was charged with five counts of attempted murder following this incident. The Court finds that, under the foregoing circumstances, S.C. Code Ann. 15-78-60(20) bars Plaintiffs' claims against the Defendants.<sup>1</sup>

---

<sup>1</sup> Because the Court finds that S.C. Code Ann. 15-78-60(20) is dispositive of the Plaintiffs' claims, the Defendants' remaining arguments in favor of dismissal are moot.

**III. CONCLUSION**

For the reasons set forth herein, the court GRANTS the Defendants' Motion to Dismiss on all causes of action and hereby dismisses the same with prejudice.

**AND IT IS SO ORDERED.**

---

The Honorable Benjamin H. Culbertson  
Presiding Judge

August \_\_, 2025  
Charleston County, South Carolina



Charleston Common Pleas

**Case Caption:** Teqyah Campbell , plaintiff, et al VS Isle Of Palms City Of ,  
defendant, et al  
**Case Number:** 2025CP1001024  
**Type:** Order/Dismissal

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-08-11 12:35:38 page 4 of 4

Tegyah Campbell et al  
PLAINTIFF(S)

Isle Of Palms City Of et al  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

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

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

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

The plaintiffs' Rule 59(e) Motion to Reconsider, Alter, or Amend filed 8/13/2025 is DENIED.

This motion is decided on the contents of the plaintiffs' motion and the defendants' memorandum filed 9/18/2025 in opposition to the motion, without oral arguments. (However, contrary to the argument in the defendants' memorandum, the court finds that the plaintiffs' motion was timely filed and served.)

**ORDER INFORMATION**

This order  ends  does not end the case.  See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/30/2025 .

Parent And Legal Guardian Of R.C., Minor

**NAMES OF TRADITIONAL FILERS SERVED BY MAIL**

**Court Reporter:**

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

---



Charleston Common Pleas

**Case Caption:** Teqyah Campbell , plaintiff, et al VS Isle Of Palms City Of ,  
defendant, et al  
**Case Number:** 2025CP1001024  
**Type:** Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-09-30 12:08:28 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2025-CP-10- _____
	)	
Teqyah Campbell and Lamona Armstrong, as parent	)	
and Legal Guardian of R.C., a minor	)	
	)	
Plaintiffs,	)	<b>SUMMONS</b>
	)	
v.	)	
	)	
City of Isle of Palms and Isle of Palms Police Dept.	)	
	)	
Defendants.	)	

---

**TO THE DEFENDANTS ABOVE-NAMED:**

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve your Answer to the Complaint upon the subscriber at his office addressed at 219 Calhoun Street, Charleston, SC 29401 within thirty (30) days after the service hereof, exclusive of the day of service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff will move the Court for the relief demanded in the Complaint.

**LAW OFFICE OF SEAN M. WILSON, LLC.**

s/Sean M. Wilson

---

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***Attorneys for Plaintiff***

February 24, 2025  
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2025-CP-10- _____
	)	
Teqyah Campbell and Lamona Armstrong, as parent	)	
and Legal Guardian of R.C., a minor	)	
	)	
Plaintiffs,	)	<b>COMPLAINT</b>
	)	(Jury Trial Demanded)
v.	)	
	)	
City of Isle of Palms and Isle of Palms Police Dept.	)	
	)	
Defendants.	)	

The Plaintiffs above named, complaining of the Defendants herein, would respectfully show unto this Honorable Court and alleges as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff, Teqyah Campbell, is a citizen and resident of Charleston County, South Carolina.
2. Plaintiff Lamona Armstrong is the parent and legal guardian of R.C., a minor, and is a citizen and resident of Charleston County, South Carolina.
3. Defendant City of Isle of Palms (hereinafter referred to as “the City”) is a political subdivision of the State of South Carolina as defined in § 15-78-10 *et seq.* of the Code of Laws of South Carolina. At all times herein mentioned, the City acted and carried on its business by and through its agents, servants, and/or employees at various locations within Charleston County, South Carolina and has its principal place of business in Charleston County, South Carolina.
4. Defendant Isle of Palms PD (hereinafter referred to as “IOP PD”) is a political subdivision of the State of South Carolina as defined in § 15-78-10 *et seq.* of the Code of Laws of

South Carolina. At all times herein mentioned, IOP PD acted and carried on its business by and through its agents, servants, and/or employees at various locations within Charleston County, South Carolina and has its principal place of business in Charleston County, South Carolina.

5. This action is brought under the common and statutory law of South Carolina, including, but not limited to South Carolina Code § 15-78-10 *et seq.*, more commonly known as the South Carolina Tort Claims Act. Jurisdiction is founded upon the above common law and statutory provisions.

6. The incident(s) giving rise to this action occurred in Charleston County, South Carolina.

7. Venue and jurisdiction are proper for the foregoing reasons.

**FACTUAL ALLEGATIONS**

8. The Plaintiffs reiterate each and every allegation above as if repeated verbatim herein.

9. The beach on the Isle of Palms is public property which is intended or permitted to be used as an open area for recreational purposes.

10. The City and IOP PD are responsible for security and supervision of the public beach on the Isle of Palms.

11. Well before April 7, 2023, the City and IOP PD long had actual notice of “Senior Skip Day,” a tradition that occurs every year on the public beach of the Isle of Palms, in which senior students from surrounding high schools skip school for the day and travel to the public beach of the Isle of Palms to congregate and party in large groups.

12. Well before April 7, 2023, the City and IOP PD long had actual notice that during “Senior Skip Day,” large groups of senior students would illegally drink alcohol, consume illegal drugs, become violent, and use guns on the public beach of the Isle of Palms, including the following communication of record in another matter filed in Charleston County Common Pleas styled Dehn v.

City of Isle of Palms and City of Isle of Palms Police Department, Case No. 2025-CP-10-00179

(“Dehn Case”):

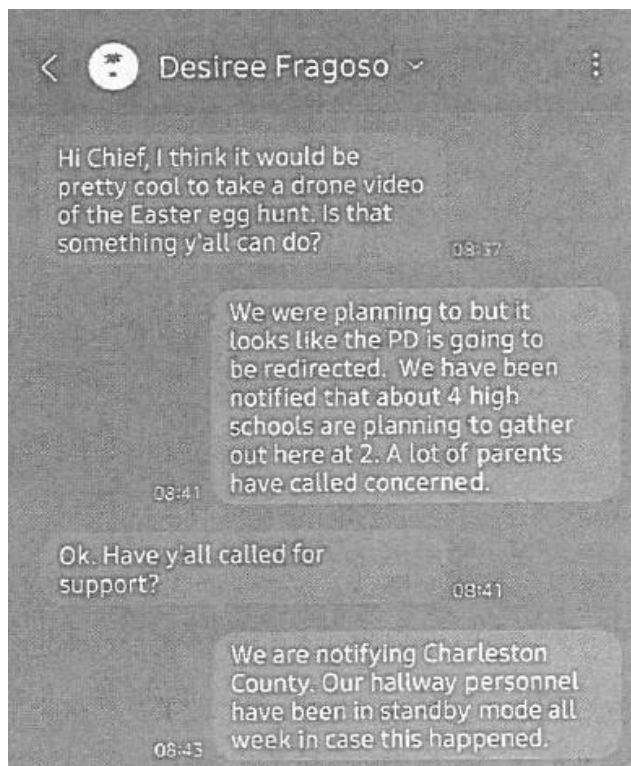
-----Original Message-----  
From: phillip holley <hpj54321@yahoo.com>  
Sent: Saturday, April 8, 2023 11:28 AM  
To: Phillip Pounds <ppounds@iop.net>  
Subject: [EXTERNAL] Police response

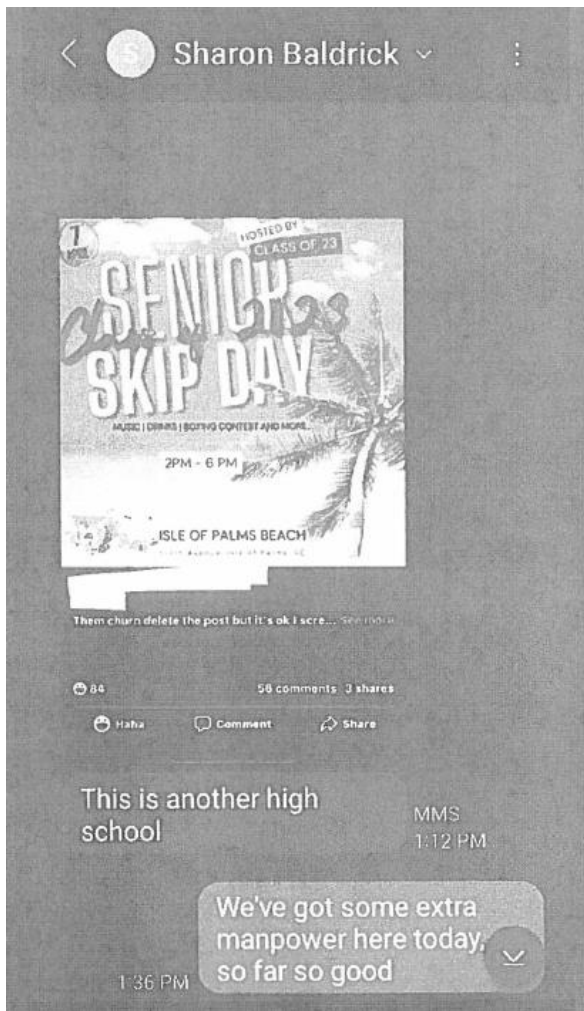
\*\*\* [EXTERNAL] \*\*\*

Phillip. I am a thirty year resident. As everyone takes a victory lap, it would seem your 30 policeman could control and or disperse a group of teenage students. **This gathering occurs every year and violence has broken out along with shootings in the past.**

Sent from my iPhone

13. On or before April 7, 2023, the City and IOP PD received actual notice that “Senior Skip Day” would once again occur on the public beach of Isle of Palms on April 7, 2023. The City and IOP PD received actual notice of this large gathering of teenagers through concerned parents, other members of the public, and social media as reflected in the filings of the Dehn Case:





14. The City and IOP PD increased police presence on the public beach on April 7, 2023 but, despite actual notice of the event, did not provide enough police to control and disperse the growing crowd as reflected in the following, of record in the Dehn Case:

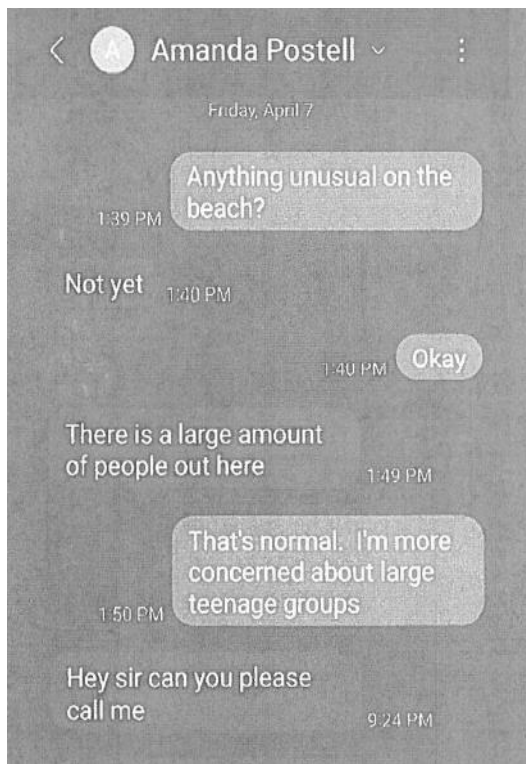
April 8, 2023  
**PRESS RELEASE**  
For Immediate Release

Contact:  
Chaundra Mikell-Yudchenko  
Public Relations & Tourism Coordinator  
(854) 837-2330  
chaundram@iop.net

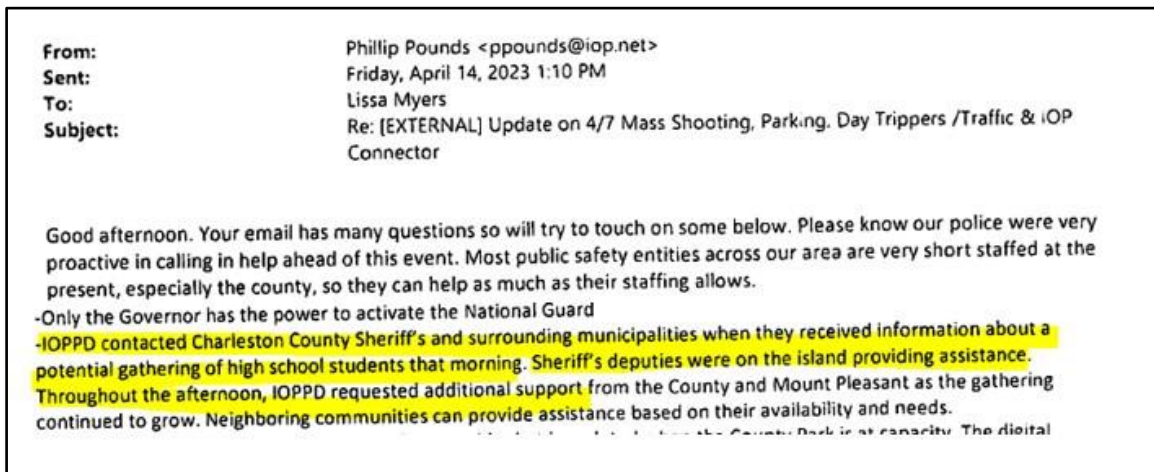
City of Isle of Palms Provides Update on Beach Incident  
Encourages Use of Emergency Tip Line

A heightened police presence had already been implemented on the beach prior to the incident, due to many area schools being on spring break. Once the IOPPD was notified of 'Senior Skip Day' taking place on the beach, more officers from around the area were called on to assist.

15. Despite IOP PD’s prior notice of this yearly event and IOP PD’s police presence on the beach, the City and IOP PD allowed the crowd to grow out of control.



16. Rather than increase their own personnel to respond to the unruly crowd of teenagers on the public beach, the City and IOP PD contacted surrounding agencies to ask for assistance, with these agencies being unable to provide sufficient personnel, e.g. see following from the Dehn Case:



17. The crowd became so large and unruly with intoxicated students that crime and

violence ensued while the City and IOP PD stood by and failed to respond to the obviously dangerous condition. Several fights broke out throughout the day, and yet the City and IOP PD continued to fail to disperse the crowd or adequately control the teenagers:



18. Despite knowing the high school students and group participating in the “Senior Skip Day” were drinking alcohol, doing drugs, fighting, and had access to firearms in a mass gathering, the IOP PD failed to supervise the students, failed to restrict access to the beach, failed to control and respond in a reasonable time to the growing and violent crowd, and failed to supervise, warn, and protect the innocent beachgoers.

19. On or about April 7, 2023, Plaintiff Teqyah, then a minor, and R.C., still a minor, were enjoying a day at the beach on the Isle of Palms.

20. As a result of the City and IOP PD’s failure to timely respond to the dangerous condition of the “Senior Skip Day” and failure to supervise, protect, and control the students, a high

school student participating in Senior Skip Day, Davion Bobby Del’Shawn Singleton (hereinafter “Singleton”) discharged his firearm, injuring several people, including Plaintiff Teqyah and minor R.C.:



### 5 victims in Isle of Palms shooting, police say; 28-year-old still hospitalized



21. Plaintiffs Teqyah and R.C. suffered traumatic, life-changing, severe injuries. Plaintiff R.C. also sustained a gunshot wound to his right shoulder and a highly comminuted ballistic fracture of the proximal humeral shaft. He was transported to MUSC for immediate medical care

### **FIRST CAUSE OF ACTION** **(Negligence and Gross Negligence)**

22. The Plaintiffs reiterate each and every allegation stated above as if repeated verbatim herein.

23. The Defendants had certain duties imposed upon them with regard to the Plaintiffs, through their voluntary undertaking, special relationships, and special circumstances.

24. The Defendants had the duties to supervise, protect, and control the students participating in “Senior Skip Day,” including Singleton.

25. The Defendants had the duties to provide security and supervision of the public beach of the Isle of Palms and to correct any dangerous conditions on the public beach within a reasonable time after actual notice of the conditions.

26. The above set forth incidents which resulted in the Plaintiffs’ damages were proximately caused by the negligent, grossly negligent, reckless, willful and wanton acts of the Defendants in the following particulars:

- a. In failing to provide the appropriate reasonable and necessary protection and care to the Plaintiffs;
- b. In failing to properly supervise and control the individuals participating in “Senior Skip Day”;
- c. In failing to disperse the crowd or otherwise respond to the dangerous condition of “Senior Skip Day” within a reasonable time after actual notice of the condition;
- d. In failing to follow and adhere to the local state and national standards, policies and procedures including the policies and procedures of Isle of Palms Police Department;
- e. In failing to properly train, monitor and supervise its personnel agents and/or employees so as to ensure the safety of the Plaintiffs when they had proper notice of threats of harm to Plaintiffs and unreasonable risk of injury and harm to Plaintiffs;

- f. In failing to have appropriate policies and protocols in place to provide for the safety and wellbeing of the Plaintiffs;
- g. If such polices exist, in consciously failing to follow the same;
- h. In failing to properly train monitor and/or supervise its employees, agents and/or staff to ensure that the Plaintiffs were protected from harm;
- i. In failing to restrict access to the beach on the Isle of Palms;
- j. In failing to control and respond in a reasonable time to the growing, violent crowd of high school students;
- k. In failing to protect the Plaintiffs;
- l. In failing to warn the Plaintiffs;
- m. In failing to have sufficient police presence on the beach despite notice and warnings of this event beforehand;
- n. In failing to properly and sufficiently investigate the incident involving the Plaintiffs;
- o. In failing to properly protect the Plaintiffs and take the proper steps to provide assistance to them when they knew or should have known that they was in such a state that they were unable to protect themselves;
- p. In failing to properly train, supervise and/or monitor its employees, agents, and/or staff, so as to ensure that the general public (including the Plaintiffs) were provided with proper care and protection.

27. As a proximate and direct result of the Defendant's reckless, willful and wanton, and grossly negligent conduct the Plaintiffs were severely injured, including but not limited to becoming the victim of a shooting which required needless physical and mental suffering and

injuries, and medical expenses and emotional and psychological injuries and damages that have been incurred and will be incurred in the future, and permanent impairment and disability.

28. The Plaintiffs have alleged multiple “occurrences” as the term is used under the South Carolina State Tort Claims Act, and accordingly, the Plaintiffs may obtain an award against the Defendants in excess of one million dollars even if the Defendants are entitled to the protection of any caps pursuant to the South Carolina State Tort Claims Act. *Boiter v. S.C.D.O.T.*, 393 S. C. 123, 125 (2011); *Chastain v. Anmed Health Found.*, 388 S.C. 170, 174, 694 S.E.2d 541, 543 (2010) (“more than one single act of negligence” constitutes multiple occurrences). The Plaintiffs asks that the jury be charges on the definition of occurrences and determine the number of occurrences at trial.

WHEREFORE, Plaintiffs prays for judgment against the Defendants, for an award of all available, actual, and consequential damages, the cost of this action, and for such other and further relief as the court deems just and proper.

Respectfully submitted,

**LAW OFFICE OF SEAN M. WILSON, LLC.**

s/Sean M. Wilson

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***Attorneys for Plaintiff***

February 24, 2025  
 Charleston, South Carolina

/s/ Sean M. Wilson Sean M. Wilson, SC Bar No. 101430

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2025-CP-10-01024
	)	
Teqyah Campbell and Lamona Armstrong,	)	
as parent and Legal Guardian of R.C., a	)	
minor,	)	
	)	<b>DEFENDANTS' MOTION TO</b>
	)	<b>DISMISS IN LIEU OF</b>
Plaintiffs,	)	<b>ANSWER</b>
	)	
v.	)	
	)	
City of Isle of Palms and Isle of Palms	)	
Police Dept.,	)	
	)	
Defendants.	)	
	)	

---

YOU WILL PLEASE TAKE NOTICE that Defendants City of Isle of Palms and Isle of Palms Police Department, by and through its undersigned attorneys, ten (10) days hence, or as soon thereafter as counsel may be heard, will move before the Presiding Judge of the Charleston County Court of Common Pleas for an Order dismissing the above captioned case pursuant to Rule 12(b)(6), S.C.R.Civ.P. The present Motion is being filed on behalf of all Defendants in response to all causes of action in lieu of Answer. The grounds for this Motion are as follows:

- (1) The Isle of Palms Police Department is not a legally recognized entity that is capable of being sued and is an improper Defendant under the South Carolina Tort Claims Act;
- (2) The City of Isle of Palms is entitled to the protections of the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.*, including, but not limited to, the protections and immunities afforded to it under S.C. Code Ann. §§ 15-78-60(4); 15-78-60(6); 15-78-60(13); 15-78-60(16); 15-78-60(20); and the immunities thereunder;

(3) The City of Isle of Palms is entitled to any and all common law defenses including, but not limited to, the Public Duty Rule and the defenses set forth in the Recreational Use Statute, S.C. Code Ann. § 27-3-10, *et seq.*;

(4) Plaintiffs' have failed to state a recognizable cause of action pursuant to the South Carolina Tort Claims Act;

This Motion is based upon the pleadings and supporting memoranda that may be filed and served prior to the hearing on this Motion, and the legal and factual arguments which counsel will present to this Honorable Court. Defendant prays for such other relief, both general and special, legal and equitable to which it may be justly entitled.

Respectfully submitted this the 28<sup>th</sup> day of March, 2025.

**RICHARDSON, PLOWDEN & ROBINSON**

*s/Drew Hamilton Butler*

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**ATTORNEYS FOR DEFENDANTS**



assist.”<sup>1</sup> Following the incident, the gunman was charged with five counts of attempted murder. See Charleston County Public Index, Davion Singleton, <https://jcmsweb.charlestoncounty.org/PublicIndex/PISearch.aspx> (last visited July 28, 2025).

The Plaintiffs filed this action against the City and its Police Department on February 24, 2025 through which they assert a single cause of action for negligence/gross negligence. For the reasons stated below, Defendants respectfully request that this Court dismiss the Plaintiffs’ claims against them.

### **ARGUMENT**

#### **I. PLAINTIFFS’ CLAIMS AGAINST DEFENDANT ISLE OF PALMS POLICE DEPARTMENT ARE IMPROPER.**

The South Carolina Tort Claims Act (“SCTCA”) is the exclusive civil remedy available in an action against a governmental entity and defines a “governmental entity” as the State and its political subdivisions. See Murphy v. Richland Mem’l Hosp., 317 S.C. 560, 455 S.E. 2d 688 (1995); S.C. Code § 15-78-30(d). The SCTCA defines “political subdivisions” to include municipalities. S.C. Code § 15-78-30(h). Courts applying the South Carolina Tort Claims Act have routinely determined that the City is the only proper defendant under the SCTCA and have dismissed police departments based on that finding. McCree v. Chester Police Dep’t., No. 0:20-CV-00867-JMC, 2021 WL 3711098, at \*3 (D.S.C. Aug. 20, 2021) citing Heath v. Town of Isle of Palms, C/A No. 2:18-3190-RMG-BM, 2019 WL 1339201, at \*1, (D.S.C. January 15, 2019) (town was the proper defendant under the SCTCA and police department should be dismissed as a defendant), report and recommendation adopted, C/A No. 2:18-3190-RMG, 2019 WL 447317

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<sup>1</sup> Notably, the Plaintiffs allege that these other agencies were “unable to provide sufficient personnel.” According to the Plaintiffs’ Complaint, these agencies included Charleston County Sheriff’s Office. The public beach at issue is located within Charleston County, and the Plaintiffs’ Complaint shows that Charleston County Sheriff’s deputies “were on the island providing assistance.” The Plaintiffs are not suing Charleston County Sheriff’s Office or any other agencies that were present during the incident or “unable to provide sufficient personnel” prior to the incident.

(D.S.C. February 5, 2019) and Wilson v. Slager, No. 2:15-CV-2170-DCN-MGB, 2016 WL 11407785, at \*6 (D.S.C. Jan. 25, 2016) (city, not the police department, was proper party under the SCTCA), report and recommendation adopted sub nom. Wilson v. First Class Patrol Officers Michael Slager, No. 2:15-CV-02170-DCN, 2016 WL 1253179 (D.S.C. Mar. 31, 2016).

In this case, the Plaintiffs state in their Complaint that their claims are asserted against the Defendants pursuant to the South Carolina Tort Claims Act. However, the Plaintiffs' claims against the Isle of Palms Police Department are improper under the Act because the Isle of Palms Police Department is not a legally recognized entity that is capable of being sued. Rather, the proper party for claims against the Isle of Palms Police Department is the City itself. Because the Isle of Palms Police Department is an improperly named defendant, and the City of Isle of Palms is already a named Defendant, the undersigned respectfully requests that the Court dismiss the Isle of Palms Police Department as a named Defendant from this action.

## **II. THE PLAINTIFFS' FAILURE TO PROTECT CLAIM IS BARRED BY THE SOUTH CAROLINA TORT CLAIMS ACT.**

The foundation for the Plaintiffs' claims in this case is clear. According to the Complaint, the Plaintiffs are suing the Defendants because the police failed to prevent and protect them from a criminal act of a third person. However, this type of claim is explicitly barred by S.C. Code Ann. § 15-78-60(6) of the Act which states that the City is not liable for injuries resulting from "riot...or the failure to provide [or] the method of providing police [ ] protection."<sup>2</sup>

The Court of Appeals addressed a failure to protect claim and the applicable immunity provision in Shelley v. S.C. Highway Patrol. 432 S.C. 335, 344, 852 S.E.2d 220, 224 (Ct. App. 2020). In Shelley, the Estate of a motorist who was struck and killed in traffic sued the South

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<sup>2</sup> While the Plaintiffs do not use the term "riot," it is clear from their description of the scene and the "violent crowd" that their alleged injuries resulted from a riot. See Riot, Merriam-Webster, <https://www.merriam-webster.com/dictionary/riot> (last visited July 11, 2025) (defining "riot" as "a violent public disorder").

Carolina Highway Patrol alleging that the Highway Patrol was negligent for failing to protect the Decedent from harm. The Circuit Court found that the Estate's claims were essentially "failure to protect" claims because they were "derivative of the notion that [Highway Patrolman] should have protected [Decedent] from harm." The Circuit Court ultimately held that the Estate's "failure to protect" claims dealt with "methods of protection" and were therefore barred under subsection 15-78-60(6). The Court of Appeals affirmed the Circuit Court's dismissal of the Decedent's negligence claim on the grounds that "failure to protect" claims are barred under subsection 15-78-60(6).

In this case, as in Shelley, the Plaintiffs' claims are derived from the notion that Defendant City of Isle of Palms Officers should have protected them from the gunman. For example, Paragraph 26 of the Plaintiff's Complaint provides, in relevant part, that Defendants breached a duty of care:

- a. "In failing to provide the appropriate reasonable and necessary **protection** and care to the Plaintiffs;
- k. In failing to **protect** the Plaintiffs;
- o. In failing to properly **protect** the Plaintiffs and take the proper steps to provide assistance to them when they knew or should have known that they were in such a state that they were unable to protect themselves."

Moreover, the remainder of Plaintiffs' allegations are, in form, allegations of deficient policymaking, training, supervision, and monitoring of individual officers, but they are, in effect, "failure to protect" claims and are similarly derived from the notion that the City of Isle of Palms failed to provide protection to Plaintiffs. These allegations repeatedly reference the "safety of the Plaintiffs" and the "protection" of the Plaintiffs and are identical to the allegations held by the Court in Shelley to be barred by subsection 15-78-60(6).

In sum, the sole basis for the Plaintiffs' claims in this case is that the Defendants failed to protect them from the criminal actions of a third person. However, their claims are barred by the Act as explained above. To find otherwise would invite every crime victim to sue every law enforcement agency and officer with jurisdiction. The intent of the legislature in enacting subsection (6) was clearly to prevent such claims which are presented by the Plaintiffs in this case. Moreover, any doubt as to the intent of the legislature in enacting this provision or the applicability of the provision in this case should be construed in favor of limiting the liability of the Defendants. See S.C. Code Ann. § 15-78-20(f) (stating that the governmental immunities provided under the Act "must be liberally construed in favor of limiting the liability of the [government entity]"). Therefore, the Plaintiffs' claims should be dismissed as barred by the Act.

### **III. THE PLAINTIFFS' CLAIMS ARE BARRED BY S.C. CODE § 15-78-60(4), (16), (20), AND (25) OF THE SOUTH CAROLINA TORT CLAIMS ACT.**

As explained above, the Plaintiffs' Complaint is replete with allegations that are wholly barred by the provisions of the Act. The immunities applicable to the allegations asserted by the Plaintiffs are not limited to S.C. Code Ann. § 15-78-60(6). Under the Act, the City is not liable for injuries resulting from:

**(4) enforcement...or failure to adopt or enforce any law...including...any...rule, regulation or written policies;**

The Plaintiffs allege that the Defendants were negligent in "failing to follow and adhere to the local state and national standards, policies and procedures." This allegation is specifically barred by subsection (4).

**(16) security[] or supervision of any public property, intended or permitted to be used as...[an] open area for recreational purposes;**

The Plaintiffs allege that the Defendants “had the duties to provide security and supervision...on the public beach.” Defendants are immune from any loss related to the provision of security or the supervision of any public property. As such, the Plaintiffs’ claims are barred by subsection (16). To the extent that the Plaintiffs argue that the Defendants failed to correct a dangerous condition on the beach, the evidence incorporated in the Plaintiffs’ Complaint shows that the Defendants not only “redirected” their own resources but also called in law enforcement from multiple outside agencies that also responded by providing support.

**(20) an act or omission of a person other than an employee including but not limited to the criminal actions of third persons; and**

The Plaintiffs allege that they were injured by a high school student. The high school student has been charged with the crime of attempted murder. The Plaintiffs do not allege that the gunman was an employee of the Defendants. As such, the Plaintiffs’ claims are barred by subsection (20).

**(25) responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student.**

In support of their claim against the Defendants, the Plaintiffs repeatedly allege that the Defendants were negligent due to “the IOP PD’s...failure to supervise, protect, and control the students.” The Plaintiffs go even further, and state that “[t]he Defendants had the duties to supervise, protect, and control the students participating in ‘Senior Skip Day,’ including [the gunman].” However, the Defendants are not liable for a loss related to the supervision, protection, or control of any student. As such, the Plaintiffs’ claims are barred by subsection (25).

S.C. Code Ann. § 15-78-60(4), (16), (20), (25).

Because each of the allegations in the Plaintiffs' Complaint fit squarely into the Act's failure to protect immunity as well the four immunities cited above, the Defendants cannot be liable to the Plaintiffs for the injuries that they sustained from the criminal conduct of the high school student gunman. The Plaintiffs have failed to state a claim against the Defendants, and this action should be dismissed.

#### **IV. PLAINTIFFS' CLAIMS ARE BARRED BY THE PUBLIC DUTY RULE.**

"In order to prove negligence, a plaintiff must show: (1) defendant owes a duty of care to the plaintiff; (2) defendant breached the duty by a negligent act or omission; (3) defendant's breach was the actual and proximate cause of the plaintiff's injury; and (4) plaintiff suffered an injury or damages." Doe v. Marion, 373 S.C. 390, 400, 645 S.E.2d 245, 250 (2007) (internal citation omitted). Relevant here, the South Carolina Supreme Court outlined the parameters of the Public Duty Rule as follows:

It is well settled that an individual has no right of action against a public officer for breach of a duty owing to the public only, even though such individual be specially injured thereby. Where a duty is owing to the public only, an officer is not liable to an individual who may have been incidentally injured by his failure to perform it.

Jenson v. Anderson County Dep't of Social Services, 304 S.C. 195, 199, 403 S.E.2d 615 (1991).

In this case, the Public Duty Rule is a complete defense to the Plaintiffs' only cause of action. The Plaintiffs allege that they were members of the public in a public space where, according to the Complaint, dozens of other members of the public were also present when a high schooler committed a criminal act. They assert that the Defendants owed a duty to each of the individuals who were similarly situated to them as members of the public in a public space. These allegations and the Plaintiffs' claim based on the same exemplify the rationale behind the public duty rule. The Plaintiffs essentially seek a finding that every municipality and its police

department are perpetually liable to every victim of every crime. Preventing such an outcome is precisely the purpose of the Public Duty Rule.

In the absence of allegations that the Defendants owed them a statutorily imposed duty or that special circumstances existed such that a special duty may be inferred, the Defendants did not owe the Plaintiffs a duty of care as they were members of the general public. The Plaintiffs have consequently failed to satisfy the threshold requirement to properly plead a negligence claim. Therefore, the Plaintiffs have failed to plead any cause of action against the Defendants, and their Complaint must be dismissed.

**V. PLAINTIFF'S CLAIMS ARE BARRED BY SOUTH CAROLINA'S RECREATIONAL USE STATUTE, S.C. CODE § 27-3-40.**

Under South Carolina's Recreational Use Statute, "property owners who permit persons to use land for recreational purposes without charge owe no duty of care to recreational users, and they do not '[e]xtend any assurance that the premises are safe for any purpose' or '[c]onfer upon recreational users the legal status of an invitee or licensee to whom a duty of care is owed.'" Bennett v. United States, No. CV 2:16-2645-RMG, 2017 WL 2120043, at \*2 (D.S.C. May 15, 2017), aff'd, 711 F. App'x 157 (4th Cir. 2018) (citing S.C. Code Ann. §§ 27-3-30, 40). These property owners also do not "[a]ssume responsibility for or incur liability for any injury to person or property caused by" their acts or omissions. S.C. Code Ann. § 27-3-40(c). The South Carolina Court of Appeals has held that the Recreational Use Statute applies to public property owners like the City of Isle of Palms. Richardson v. City of Columbia, 340 S.C. 515, 521, 532 S.E.2d 10, 13 (Ct. App. 2000).

In this case, the Plaintiffs allege that "[t]he beach on the Isle of Palms is public property which is intended or permitted to be used as an open area for recreational purposes." The Plaintiffs further allege that their injuries were caused by the acts and omissions of the Defendants. Under the facts set forth in the Complaint, the Plaintiffs were recreational users to

whom the Defendants did not owe a duty of care. Consequently, the Defendants did not “incur liability for any injury to person or property caused by” their acts or omissions. The Plaintiffs’ claims against the Defendants should therefore be dismissed pursuant to South Carolina’s Recreational Use Statute and the case law cited above.

### **CONCLUSION**

WHEREFORE, for the reasons stated above, the Defendants respectfully request that this Motion be granted and that the Plaintiffs’ claims against them be dismissed. The Defendants pray for such other relief, both general and special, legal or equitable, to which they may be justly entitled.

Respectfully submitted this 30<sup>th</sup> day of July, 2025.

**RICHARDSON, PLOWDEN & ROBINSON, P.A.**

*s/Drew Hamilton Butler*

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**ATTORNEYS FOR DEFENDANTS**

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	C.A. No.: 2025-CP-10-01024
	)	
Teqyah Campbell and Lamona Armstrong	)	
Et al	)	
	)	PLAINTIFFS' OPPOSITION TO
Plaintiff,	)	DEFENDANTS' MOTION TO DISMISS
	)	
vs.	)	
	)	
City of Isle of Palms and Isle of Palms	)	
Police Department,	)	
	)	
Defendant.	)	

Plaintiffs Teqyah Campbell and Lamona Armstrong, as parent and legal guardian of R.C. a minor (“Plaintiffs”), Oppose Defendants City of Isle of Palms and Isle of Palms Police Department (hereinafter “Isle of Palms”)<sup>1</sup> Motion to Dismiss. Isle of Palms’ Motion should be denied as set forth hereinbelow.

**Relevant Facts**

This case stems from the tragic shooting that occurred on the Isle of Palms beach on the afternoon of April 7, 2023 in which numerous people, including Plaintiffs Campbell and the minor child R.C. were shot and injured. This shooting occurred despite the fact that Isle of Palms, having had actual notice before and during the day, allowed a large crowd of teenage students participating in “Senior Skip Day” to have and maintain access to weapons, failed to prevent the crowd from becoming unruly, and utterly failed and disregarded its duties and responsibilities with regard to Plaintiffs’ safety.

“Senior Skip Day” is an annual tradition in which senior students from several area high

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schools skip school for the day, travel to Isle of Palms beach, and party on the beach in large groups. Isle of Palms long had notice of this tradition and knew that during Senior Skip Day, these teenage students would illegally drink alcohol, consume illegal drugs, become violent and fight, and use guns on the public beach. Isle of Palms received actual notice that “Senior Skip Day” would occur on Isle of Palms beach on April 7, 2023, and in response, Isle of Palms undertook the pretense to provide increased police presence on the beach, ostensibly to supervise and control the crowd.

However, Isle of Palms allowed the crowd to grow out of control during the day, with several fights breaking out, and other crime and violence taking place. Isle of Palms had actual notice of this ever-growing violent crowd and knew that they were drinking alcohol, doing drugs, fighting and had access to firearms. Yet, Isle of Palms stood idly by and failed to adequately respond to these dangerous conditions, failed to disperse the crowd, failed to restrict access to the beach, failed to control the violence, and failed to confiscate these illegal firearms to protect the students and other innocent beachgoers.

Plaintiffs Campbell and the minor R.C. were seriously wounded in the violence and required extensive medical care as a result, yet Isle of Palms now seeks to dismiss this case at the pleadings stage. For the reasons set forth herein, Isle of Palms’ motion should be denied.

### **GOVERNING LAW AND STANDARD OF REVIEW**

Generally, in considering a Rule 12(b)(6), S.C.R.C.P. motion to dismiss, the court must base its ruling solely upon allegations set forth on the face of the Complaint. *Doe v. Greenville County Sch. Dist.*, 375 S.C. 63, 66, 651 S.E.2d 305, 307 (2007). A motion to dismiss pursuant to Rule 12(b)(6) must be based solely on the allegations set forth in the Complaint and must presume all well-pled facts to be true. *Gressette v. S.C. Elec. & Gas Co.*, 370 S.C. 377, 379, 635 S.E.2d 538, 538-39 (2006); *Overcash v. South Carolina Elec. and Gas Co.*, 364 S.C. 569, 614 S.E.2d 619

(2005). “[U]nder our current pleading rules only ultimate facts are required to be stated in pleadings. Ultimate facts are those which the evidence upon trial will prove, and not the evidence which will be required to prove those facts.” *Brown v. Inv. Mgmt. & Research, Inc.*, 323 S.C. 395, 400 n. 3, 475 S.E.2d 754, 756 n. 3 (1996).

If the facts and inferences drawn from the facts alleged in the complaint, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then the grant of a motion to dismiss for failure to state a claim is improper. *Clearwater Tr. v. Bunting*, 367 S.C. 340, 343, 626 S.E.2d 334, 335 (2006); *Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1999). “Furthermore, the complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action.” *Spence v. Spence*, 368 S.C. 106, 116–17, 628 S.E.2d 869, 874 (2006). “The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief.” *Gentry v. Yonce*, 337 S.C. 1, 5, 522 S.E.2d 137, 139 (1999). Further, dismissal under Rule 12(b)(6) is inappropriate if the pleadings raise a novel question of law. *Chestnut v. AVX Corp.*, 413 S.C. 224, 228, 776 S.E.2d 82, 84 (2015); *Madison v. Am. Home Prod. Corp.*, 358 S.C. 449, 451, 595 S.E.2d 493, 494 (2004).

### **LEGAL ARGUMENT & ANALYSIS**

#### **I. Plaintiff’s Conceded Dismissal of Isle of Palms Police Department Is Appropriate if the City Remains A Defendant**

In its motion, Isle of Palms alleges that its police department is not a legally recognized entity capable of being sued and is an improper Defendant under the South Carolina Tort Claims Act.” Plaintiffs are willing to concede this as long as City of Isle of Palms agrees it is the legally recognized entity under the SCTCA and is the proper Defendant and Plaintiffs will stipulate to the dismissal of “Isle of Palms Police Department” in this case. That said, there is no reason to dismiss the suit

entirely as Isle of Palms contends must occur, and for this reason the Motion should be denied.

## **II. The Defendants Fail To Account For Their Own Gross Negligence And The Applicable Exception This Raises**

Isle of Palms claims that it is entitled to various “protections and immunities” set forth in the South Carolina Tort Claims Act (“SCTCA”) and S.C. Code Ann. § 15-78-60. However, in addition to most of these exemptions having no applicability to this case, even if they did, an exception exists as to each of them for the gross negligence of Isle of Palms, creating a factual issue for the jury and precluding a dismissal at the pleadings stage.

Gross negligence is “defined as a relative term, and means the absence of care that is necessary under the circumstances.” *Bass v. S.C. Dep’t of Soc. Servs.*, 414 S.C. 558, 571, 780 S.E.2d 252, 259 (2015). “In most cases, gross negligence is a factually controlled concept whose determination best rests with the jury.” *Faile v. S.C. Dep’t of Juvenile Justice*, 350 S.C. 315, 332 (2002). With respect to the SCTCA, the South Carolina Supreme Court has long held that “when an exception containing the gross negligence standard applies, that same standard will be read into any other applicable exception. Otherwise, portions of the Act would be a nullity, which the Legislature could not have intended.” *Steinke v. S.C. Dept. of Labor, Licensing & Reg.*, 336 S.C. 373, 398, 520 S.E.2d 142 (1999); *see Repko v. Cnty of Georgetown*, 424 S.C. 494,507, 818 S.E.2d 743, 750 (2018) (holding that “in order for the gross negligence standard from one immunity provision to be read into an immunity provision that does not contain a gross negligence standard, the immunity provision containing the gross negligence standard must first apply to the case”); *Chakrabarti v. City of Orangeburg*, 403 S.C. 308, 320, 743 S.E.2d 109, 115 (Ct. App. 2013) (“We hold that when an exception containing the gross negligence standard applies, that same standard will be read into any other applicable exception.”); *Staubes v. City of Folly Beach*, 339 S.C. 406, 417, 529 S.E.2d 543 (2000)

(holding “*Steinke* disposes of the City’s argument in this case”). In other words, “[w]hen a governmental entity asserts an exception to the waiver of immunity and **any other applicable exception contains a gross negligence standard**, the Court must read the

gross negligence standard into *all of the exceptions* under which the entity seeks immunity.” *Plyler v. Burns*, 373 S.C. 637, 647 S.E.2d 188, 196 (2007) (emphasis added).

One of the exceptions to the SCTCA applicable to Isle of Palms here is in S.C. Code Ann. § 15-78-60(25), which reads:

The governmental entity is not liable for a loss resulting from:

(25) 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) (emphasis added). Thus, when this exception applies, with respect to any other possible exceptions under the SCTCA, the Court of Appeals has held:

While Atkinson’s transfer was admittedly an act requiring the discretion and judgment of the Department, Section 15-78-60(25) provides an exception to immunity where the governmental entity exercises its responsibility or duty in a grossly negligent manner. Section 15-78-60(5) must be read in light of this exception. If discretion is exercised in a grossly negligent manner, the exception to the normal rule of immunity applies.

*Jackson v. S.C.D.C.*, 301 S.C. 125, 128, 390 S.E.2d 467, 469 (Ct. App. 1989).

As alleged in the Complaint, Isle of Palms knew that during “Senior Skip Day,” “large groups of senior students would illegally drink alcohol, consume illegal drugs, become violent, and use guns on the public beach of the Isle of Palms.” On April 7, 2023, Isle of Palms received notice that “Senior Skip Day” would once again occur on the beach and that there would be a “gathering of high school students that morning.” Isle of Palms claims to have been “very proactive in calling in help ahead of this event” and “increased police presence.” Indeed, Isle of Palms’ Press Release

states that it increased police presence due to the large amount of students on the beach for “Senior Skip Day.”

A heightened police presence had already been implemented on the beach prior to the incident, due to many area schools being on spring break. Once the IOPPD was notified of 'Senior Skip Day' taking place on the beach, more officers from around the area were called on to assist.

Instead of shutting down the beach to minors without parental supervision, by allowing “Senior Skip Day” Isle of Palms undertook a responsibility and duty of “supervision, protection, [and] control” of the students participating in “Senior Skip Day” and the other beachgoers in the vicinity of those students on April 7, 2023. Therefore, Section 15-78- 60(25) squarely applies to the Isle of Palms. Because the gross negligence exception contained in Section 15-78-60(25) is read into all other applicable exemptions under the SCTCA, Isle of Palms is not entitled to a dismissal of the Complaint.

### III. The Law Cited by Isle of Palms Is Not Contextually Accurate

Another exemption under the SCTCA cited by the Isle of Palms as applicable in this case and as grounds for dismissal in this case also contains an exception within it that presents factual issues for the jury and precludes dismissal at the pleadings stage. Isle of Palms claims it is immune from liability pursuant to S.C. Code Ann. § 15-78-60(16). That section states that a governmental entity is not liable for a loss resulting from “maintenance, security, or supervision of any public property, intended or permitted to be used as a park, playground, or open area for recreational purposes, unless the defect or condition causing a loss is not corrected by the particular governmental entity responsible for maintenance, security, or supervision within a reasonable time after actual notice of the defect or condition.” S.C. Code Ann. § 15-78-

60(16) (emphasis added). The exception within this exemption requires either “a defect *or* a condition caused the injuries.” *Richardson v. City of Columbia*, 340 S.C. 515, 523, 532 S.E.2d 10 (Ct. App. 2000). The plain terms of this exemption contain factual issues that must be determined by a jury, including “actual notice” and “reasonable time.” “Actual notice may be shown by direct evidence or inferred from factual circumstances.” *Richardson*, 340 S.C. at 524.

Throughout the Complaint, Plaintiff alleges that the Isle of Palms had actual notice of a dangerous condition on the beach on April 7, 2023 and failed to respond to correct such condition within a reasonable time after such notice. The Complaint explicitly alleges that the City and IOP PD had actual notice that during ‘Senior Skip Day,’ large groups of senior students would illegally drink alcohol, consume illegal drugs, become violent, and use guns on the public beach of the Isle of Palms.”

As a particular example of gross negligence, the Complaint alleges that the Isle of Palms was grossly negligent [i]n failing to disperse the crowd or otherwise respond to the dangerous condition of ‘Senior Skip Day’ within a reasonable time after actual notice of the condition. As such, because the exception in Section 15-78-60(16) contains factual issues such as “actual notice” and “reasonable time” that must be determined the jury, Isle of Palms is not entitled to dismissal under this exemption. Moreover, as with the gross negligence exception in Section 15-78-60(25), this exception within Section 15-78-60(16) would be read into any other applicable exemptions under the SCTCA. “Otherwise, portions of the Act would be a nullity, which the Legislature could not have intended.” *Steinke*, 336 S.C. at 398. Therefore, as Isle of Palms concedes the application of this exemption in this case, due to the stated exception within this exemption, dismissal under the SCTCA would be inappropriate.

#### IV. The Exception Cited by Defendants is Inapposite To This Case

Isle of Palms also claims that it is immune from liability in this case pursuant to the Recreational Use Statute, S.C. Code Ann. § 27-3-10, *et seq.* See Mtn. at 2. Section 27-3-30 provides:

**Except as specifically recognized by or provided in Section 27-3-60**, an owner of land owes no duty of care to keep the premises safe for entry or use by persons who have sought and obtained his permission to use it for recreational purposes or to give any warning of a dangerous condition, use, structure, or activity on such premises to such persons entering for such purposes.

S.C. Code Ann. § 27-3-30 (emphasis added). The exceptions referred to in this section are, among others, a gross negligence exception:

Nothing in this chapter limits in any way any liability which otherwise exists:

(a) **For grossly negligent, willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity**

(b) For injury suffered in any case where the owner of land charges persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the State or a subdivision thereof, any consideration received by the owner for such lease shall not be deemed a charge within the meaning of this section.

S.C. Code Ann. § 27-3-60 (emphasis added).

Thus, the Act “does not . . . limit the liability which would otherwise exist for grossly negligent, willful, or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.” *Chrisley v. United States*, 620 F. Supp. 285, 291 (D.S.C. 1985). Given these exceptions, courts hold that “application of the Recreational Use Statute . . . cannot be determined based on the pleadings alone. There are exceptions to the Recreational Use Statute, and the application of the statute . . . cannot be determined based solely on the allegations of the

complaint.” *Maloney v. Duke Energy Carolinas LLC*, C/A No. 8:11-381-HMH (D.S.C. Apr. 8, 2011). As Plaintiff has pled gross negligence on the part of Isle of Palms, the Complaint cannot be dismissed under the Recreational Use Statute.

#### **V. The Complaint Asserts Common Law Claims, Vitiating Defendants’ Exceptions**

Isle of Palms also cites to the “Public Duty Rule” as grounds for dismissal in this case. However, the public duty rule does not apply to the allegations in this case. “A plaintiff alleging negligence on the part of a governmental actor or entity may rely either upon a duty created by statute or one founded on the common law.” *Edwards v. Lexington Cnty Sheriff’s Dep’t*, 386 S.C. 285, 290, 688 S.E.2d 125, 128 (2010). “When the negligence plaintiff’s cause of action against a governmental entity is founded upon a statutory duty, then whether that duty will support the claim should be analyzed under the [public duty] rule. On the other hand, where the duty relied upon is based upon the common law . . . then the existence of that duty is analyzed as it would be were the defendant a private entity.” *Arthurs*, 346 S.C. at 105. In other words, “the rule is applied only when an action is founded upon a statutory duty, not when the duty is grounded in the common law.” *Madison v. Babcock Center, Inc.*, 371 S.C. 123, 145, 638 S.E.2d 650 (2006). Emphasis added.

The allegations in the Complaint do not rely on the existence of a statute for the existence of a duty in this case. The SCTCA is not a statutory ground for a duty to arise, as “[t]he TCA does not create causes of action, but removes the common law bar of sovereign immunity in certain circumstances.” *Arthurs ex rel. Munn v. Aiken County*, 346 S.C. 97, 105, 551 S.E.2d 579 (2001). Instead, the Complaint explicitly alleges that Defendants have duties “through their voluntary undertaking, special relationships, and special circumstances.” Compl. at ¶ 24. A common law duty is created by a defendant’s voluntary undertaking when “(a) the undertaker’s failure to exercise reasonable care in performing the undertaking increased the risk of harm to the plaintiff,

or (b) the plaintiff suffered harm because she relied upon the undertaking.” *Wright v. PRG Real Estate Management, Inc.*, 426 S.C. 202, 213, 826 S.E.2d 285, 291 (2019) (emphasis added). In other words, “[i]f an act is voluntarily undertaken . . . the actor assumes the duty to use due care.” *Miller v. City of Camden*, 329 S.C. 310, 314, 494 S.E.2d 813, 815 (1997). “Where there are factual issues regarding whether the defendant was in fact a volunteer, the existence of a duty becomes a mixed question of law and fact to be resolved by the fact-finder.” *Id.*

For instance, in *Wright v. PRG Real Estate Management, Inc.*, 426 S.C. 202, 826 S.E.2d 285 (2019), the plaintiff was abducted and robbed at gunpoint in a common area of an apartment complex. The plaintiff argued that the apartment complex voluntarily undertook to protect her from the criminal actions of third parties by employing a courtesy officer program on which she relied. In allowing the case to proceed to trial, the South Carolina Supreme Court held that “a jury must determine (a) whether any failure by Respondents to exercise due care in performing the undertaking increased the risk of harm to Wright or (b) whether any harm suffered by Wright arose from her reliance upon Respondents’ undertaking.” 426 S.C. at 221, 826 S.E.2d at 295.

Similarly, in *Madison v. Babcock Center, Inc.*, 371 S.C. 123, 638 S.E.2d 650 (2006), the plaintiff, a special needs woman, alleged that “Babcock Center allegedly acted negligently in creating the risk of injury to Appellant by not properly supervising her and allowing improper sexual contacts between Appellant and men.” 371 S.C. at 137. The South Carolina Supreme Court held that “Babcock Center undertook a duty, for consideration, to render services to Appellant which the center should have recognized as necessary for the protection of Appellant. Thus, Babcock Center had a duty to control Appellant’s conduct to the extent necessary to prevent her

from harming herself or to prevent others from harming her while staying at the center.” *Id.*

Finally, in *Vaughn v. Town of Lyman*, 370 S.C. 436, 635 S.E.2d 631 (2006), where the plaintiff allegedly tripped and fell on a sidewalk, the South Carolina Supreme Court reversed summary judgment and held, “[t]here is a genuine issue of fact regarding whether Lyman undertook the duty of maintaining city streets, even though all city streets were not owned by Lyman . . . [T]he factual issues regarding whether the defendant did in fact voluntarily undertake the maintenance of the town’s sidewalks, including Lawrence Street, is a mixed question of law and fact which should be resolved by the fact finder.” 370 S.C. at 447-48.

Here, the Complaint alleges that Isle of Palms on or before April 7, 2023 “received actual notice of this large gathering of teenagers through concerned parents, other members of the public, and social media” The Isle of Palms knew that this group participating in “Senior Skip Day” “were drinking alcohol, doing drugs, fighting, and had access to firearms.” In response to this notice about “Senior Skip Day,” Isle of Palms increased police presence on the public beach on April 7, 2023 and contacted surrounding agencies to ask for assistance. Isle of Palms was clearly given notice about Senior Skip Day occurring on the beach and in response sought to have some extra manpower available. Yet, despite undertaking this duty and responsibility to provide security and supervision of the students on the beach on April 7, 2023, Isle of Palms failed to supervise the students, failed to restrict access to the beach, failed to control and respond in a reasonable time to the growing and violent crowd, and failed to supervise, warn, and protect the innocent beachgoers.”

This failure by the Isle of Palms to exercise due care and gross negligence in the supervision of the students at “Senior Skip Day” increased the risk of harm to Plaintiff Campbell and the minor, R.C. and/or the harm they suffered arose from their reliance on the police presence on the beach that day to protect her and others beachgoers. *Wright*, 426 S.C. at 221. Moreover, at the very least,

“a jury must determine” these issues. *Id.* Therefore, given the reliance on common law duties as opposed to statutory duties, the “Public Duty Rule” is inapplicable and provides no grounds for dismissal in this case.

## **VI. The Exemptions Defendants’ Cite Do Not Apply To This Case.**

In addition to the other exemptions under the SCTCA having a gross negligence standard read into them if applicable, Isle of Palms has failed to meet its burden to show these exemptions are applicable. “The governmental entity claiming an exception to the waiver of immunity under the Tort Claims Act has the burden of establishing any limitation on liability.” *Madison v. Babcock Ctr, Inc.*, 371 S.C. 123, 142-43, 638 S.E.2d 650 (2006).

### **1. Section 15-78-60(4).**

Isle of Palms claims that it has immunity in this case pursuant to Section 15-78-60(4). Section 15-78-60(4) provides for an exception to the waiver of immunity for losses 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). However, this section is not as broad as it seems, nor does it give blanket immunity to law enforcement agencies. In *Clark v. S.C. Department of Public Safety*, 353 S.C. 291, 578 S.E.2d 16 (Ct. App. 2002), which arose out of the death of a motorist struck and killed during a high-speed police pursuit, the South Carolina Department of Public Safety argued that under Section 15-78-60(4), “it is immune from liability for failing to enforce any written policy, in this case, the Pursuit Policy’s guideline that a supervisor monitor all pursuits.” 353 S.C. at 307. In denying a directed verdict under this section, the trial judge stated, “I don’t think it was a policy violation. I think it was a violation of the standard of care that they are supposed to provide to the public.” *Id.* The South Carolina Court of Appeals agreed and held, “the Pursuit Policy was

merely a statement of generally accepted law enforcement guidelines. This broad provision is not the kind of written policy that should be afforded the protection of absolute immunity under the Tort Claims Act.” *Id.* In other words, the court held that “[t]he mere fact that the Department enacted a policy does not protect it from having to meet a standard of care that exists whether the policy was enacted or not.” *Id.* at 308.

With this in mind, any dismissal under this section would be inappropriate due to the requirement that a gross negligence standard be read in. Moreover, as the Complaint clearly shows and as set forth below, the Complaint broadly alleges violation of the standard of care by law enforcement in this case and failure to properly supervise and control the individuals participating in ‘Senior Skip Day.’ To the extent that there are broad policies in place at Isle of Palms that are “merely statement[s] of generally accepted law enforcement guidelines,” as set forth above, such policies and Isle of Palms compliance or noncompliance therewith do not fall under the immunity of Section 15-78-60(4).

## **2. Section 15-78-60(6).**

Isle of Palms also relies on Section 15-78-60(6). Section 15-78-60(6) provides an exception to the waiver of immunity for a loss resulting from “civil disobedience, riot, insurrection, or rebellion or the failure to provide the method of providing police or fire protection.” S.C. Code Ann. § 15-78-60(6). Section 15-78-60(6) does not “provide[] the police with ‘blanket immunity.’” *Shelley v. S.C. Highway Patrol*, 432 S.C. 335, 345, 852 S.E.2d 220, 225 (Ct. App. 2020). “No case in South Carolina has determined whether a generalized request for police presence triggers § 15-78-60(6).” *Brown v. City of N. Charleston*, C/A No. 2:18-cv-2948-DCN-TER (D.S.C. Oct. 29, 2020). Further, this “section is intended to provide immunity for the formulation and implementation of policies [T]he same immunity does not protect the [entity] when failing to adhere to these policies.” *Gallmon*

*v. Cooper*, No. 8:17-cv-0059-TLW (D.S.C. Sept. 17, 2018). Here, the Complaint does not take aim at the “formulation and implementation of policies” but rather alleges gross negligence [i]n failing to follow and adhere to the local state and national standards, policies and procedures including the policies and procedures of Isle of Palms Police Department. As such, Section 15-78-60(6) is not applicable in this case and the Defendants’ motion should be denied.

**3. Section 15-78-60(13).**

Isle of Palms cites to Section 15-78-60(13) of the SCTCA. Section 15-78-60(13) provides an exception to the waiver of immunity for “regulatory inspection powers or functions, including failure to make an inspection, or making an inadequate or negligent inspection, of any property to determine whether the property complies with or violates any law, regulation, code, or ordinance or contains a hazard to health or safety.” S.C. Code Ann. § 15-78-60(13). This exception dealing with “regulatory inspection powers or functions” for property does not apply in this case to the actions of the Isle of Palms Police Department and their actions in failing to provide security and protection on the day of this shooting. Indeed, one of the only South Carolina Supreme Court cases dealing with this action deal with the South Carolina Department of Labor, Licensing and Regulation and their statutory duty to “inspect an amusement device before issuing a permit” under the Amusement Rides Safety Code. *Steinke v. S.C. Dep’t of Labor, Licensing & Regulation*, 336 S.C. 373, 390, 520 S.E.2d 142 (1999). There simply are no such regulatory inspection powers or functions alleged in this case.

**4. Section 15-78-60(20).**

Section 15-78-60(20) relied upon by Isle of Palms does not apply in this case. Section 15-78-60(20) states that a governmental entity is not liable for “an action or omission of a person other than an employee including but not limited to the criminal actions of third persons.” S.C. Code Ann. § 15-78-60(20). As set forth above, the Complaint does not focus on any criminal actions of third parties,

but instead focuses on Isle of Palms' grossly negligent supervision and control of the students participating in "Senior Skip Day" and gross negligence in its duty to protect the Plaintiffs. South Carolina courts have consistently found § 15-78-60(20) inapplicable under such circumstances. In *Greenville Memorial Auditorium v. Martin*, 301 S.C. 242, 391 S.E.2d 546 (1989), a case in which the plaintiff was struck by a glass bottle thrown by an unknown person during a concert, the South Carolina Supreme Court held that § 15-78-60(20) did not entitle the defendant to dismissal:

Here, respondent's complaint alleged appellant and its employees were negligent in adequately securing and maintaining the premises during the concert and this negligence created a reasonably foreseeable risk of such third party conduct. Respondent's complaint did not allege appellant was liable because of the criminal act of a third party. Consequently, Section 15-78-60(20) would not operate to exonerate appellant of liability for its own conduct. Appellant cannot successfully defend that respondent's injuries were caused by the wrongful criminal act of a third party, where the very basis upon which appellant is claimed to be negligent is that appellant created a reasonably foreseeable risk of such third party conduct. Consequently, the trial judge did not err in refusing to dismiss the action.

301 S.C. at 246-47, 391 S.E.2d at 548-49.

Similarly, in *Woodell by Allen v. Marion School Dist. Once*, 307 S.C. 297, 414 S.E.2d 794 (Ct. App. 1992), a case in which a student was assaulted by another student, the Court of Appeals first examined 15-78-60(25) and held that "[a] governmental entity may be liable to a student for a loss when the entity's responsibility to supervise, protect, or control a student 'is exercised in a grossly negligent manner.'" 414 S.E.2d at 795. The court then examined the complaint and held, "Here, the complaint does not seek to pin liability on the school district because of the alleged criminal action of the other student; rather, as we noted above, it focuses on the school district's alleged gross negligence in supervising Woodell and the student who allegedly attacked Woodell." *Id.* at 794. As such, because the Complaint focuses on Isle of Palms' gross negligence and its creation of an increased risk of harm to Plaintiff, 15-78-60(20) is inapplicable.

**VII. Even if the Court Determines the Motion is Valid, Plaintiff Should Be Permitted to Amend Before Any Final Order of Dismissal.**

To the extent the Court finds that the Complaint is somehow deficient, Plaintiff must be given an opportunity to amend the Complaint before an order of dismissal. The South Carolina Supreme Court requires that “[w]hen a trial court finds a complaint fails ‘to state facts sufficient to constitute a cause of action’ under Rule 12(b)(6), the court should give the plaintiff an opportunity to amend the complaint pursuant to Rule 15(a) before filing the final order of dismissal.” *Skydive Myrtle Beach, Inc. v. Horry County*, 426 S.C. 175, 179, 826 S.E.2d 585, 587 (2019).

**CONCLUSION**

For the reasons set forth above, Plaintiff respectfully requests that the Court deny Isle of Palms’ Motion to Dismiss.

**LAW OFFICE OF SEAN M. WILSON, LLC.**

s/Sean M. Wilson

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*Attorneys for Plaintiff*

Dated this 1 day of August 2025  
Charleston, South Carolina



Carolina Rules of Civil Procedure. Plaintiffs filed their Opposition to Defendants Motion to Dismiss on August 1, 2025. The parties appeared for a hearing on August 5, 2025, in after which this Court issued an Order granting Defendants Motion to Dismiss.

### **LEGAL STANDARD**

Rule 59(e) of the South Carolina Rules of Civil Procedure provides a mechanism for parties to move the court to alter or amend a judgment within ten (10) days following receipt of written notice of the entry of the order. The purpose of a motion to alter or amend is “to request the trial judge reconsider matters properly encompassed in a decision on the merits.” *Coward Hund Constr. Co., Inc. v. Ball Corp.*, 336 S.C. 1, 4, 518 S.E.2d 56, 58 (Ct. App. 1999). The South Carolina Supreme Court stated that a party may file a Rule 59(e) motion “when [it] 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.” *Elam v. S.C. DOT*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004).

### **ARGUMENTS IN SUPPORT OF RECONSIDERATION**

Plaintiffs respectfully request that this Court reconsider, amend, or alter the Order granting the Defendants’ Motion to Dismiss for the following reasons:

#### **A. Reconsideration is Necessary to Prevent Manifest Injustice**

Reconsideration is appropriate if the Court’s original ruling “overlook[ed] or disregard[ed] argument or controlling authority.” *Coleman v. United States*, No. 2:15-cv-2875, 2017 WL 2266881, at \*2 (S.D. Ohio May 23, 2017). Plaintiffs have alleged facts that, if proven, establish City of Isle of Palms’ gross negligence as a proximate cause of R.C.’s injuries. South Carolina law disfavors early dismissal where fact-intensive issues such as duty, foreseeability, and breach remain unresolved.

Furthermore, dismissal of Plaintiffs' claims while permitting similar claims by similarly situated plaintiffs, arising from the same incident and involving the same Defendant to proceed, creates an inequitable disparity and inconsistent application of the law. Notably, the Court has permitted *Julia Dehn v. City of Isle of Palms and Isle of Palms Police Department*, No. 2025-CP-10-00179 (S.C. Ct. Com. Pl., Charleston Cnty., Order Denying Def. Mot. to Dismiss, July 31, 2025) (pending) to proceed.

Additionally, in its August 7, 2025, Order, the Court dismissed Plaintiffs' claims without granting leave to amend, despite Plaintiffs having expressly requested such relief in their Opposition to Defendants' Motion to Dismiss. *Pl. Opp. to Def. MTD at 16*. The South Carolina Supreme Court requires that "[w]hen a trial court finds a complaint fails 'to state facts sufficient to constitute a cause of action' under Rule 12(b)(6), the court should give the plaintiff an opportunity to amend the complaint pursuant to Rule 15(a) before filing the final order of dismissal." *Skydive Myrtle Beach, Inc. v. Horry Cnty.*, 426 S.C. 175, 179, 826 S.E.2d 585, 587 (2019).

By dismissing the action outright without first affording Plaintiffs an opportunity to amend, this Court overlooked controlling authority. This omission constitutes a misapprehension of the applicable law and results in manifest injustice, warranting relief under Rule 59(e), SCRCF. Thus, to prevent manifest injustice, Plaintiffs respectfully request this Court reconsider its Order granting Defendants' Motion to Dismiss and permit this case to proceed.

#### **B. Newly Discovered Evidence**

Subsequent to the hearing on August 5, 2025, Plaintiffs obtained a witness affidavit filed in the related *Dehn*, No. 2025-CP-10-00179 (Pl. Opp'n, to Def. Mot. to Dismiss, Ex.1, Witness Aff. of Elijah Yungwirth, argued July 31, 2025) (pending), litigation, which was unavailable

despite Plaintiffs' diligent efforts prior to the hearing. This affidavit provides detailed, sworn testimony that before the incident on April 7, 2023, a witness reported to an Isle of Palms Police Officer that there was a firearm in the crowd of students, and despite having actual notice of a firearm in the crowd, the officer failed to inform first responders over the radio or attempt to seize the firearm. *Id.* at 17 and Ex. 1 (pending). This witness affidavit demonstrates Defendants' failure to respond and take reasonable protective measures despite having actual knowledge of a threat to public safety, corroborating Plaintiffs' claims. Under *Elam v. S.C. DOT*, 361 S.C. 9, 24, 602 S.E.2d 772 (2004), this constitutes newly discovered evidence justifying reconsideration, and as such Plaintiffs respectfully request this Court consider this evidence in revisiting the dismissal and allow amendment of the original Complaint.

**C. The Court Misapplied S.C. Code Ann § 15-78-60(20)**

The Court granted dismissal of this case based solely on SCTCA §15-78-60(20), which provides that a governmental entity is not liable for losses resulting from criminal acts of third parties. However, this provision does not provide immunity where the governmental entity's gross negligence contributed to the injury.

South Carolina law defines gross negligence as "the absence of care that is necessary under the circumstances" and is generally a jury question. *See Bass v. S.C. Dep't of Soc. Servs.*, 414 S.C. 558, 571, 780 S.E.2d 252, 259 (2015); *Faile v. S.C. Dep't of Juvenile Justice*, 350 S.C. 315, 332 (2002). The Supreme Court has made clear that "when an applicable exception to the waiver of immunity contains a gross negligence standard, that gross negligence standard must be read into all other applicable exceptions that do not contain a gross negligence standard." *Repko v. Cnty. of Georgetown*, 424 S.C. 494, 818 S.E.2d 743 (S.C. 2018); *Chakrabarti v. City of Orangeburg*, 403 S.C. 308, 743 S.E.2d 109 (S.C. App. 2013) ("We hold that when an exception containing the gross

negligence standard applies, that same standard will be read into any other applicable exception."); *Steinke v. S.C. Dept. of Labor, Licensing & Reg.*, 336 S.C. 373, 520 S.E.2d 142 (S.C. 1999) ("This Court and the Court of Appeals previously have recognized that the correct approach, when a governmental entity asserts various exceptions to the waiver of immunity, is to read exceptions that do not contain the gross negligence standard in light of exceptions that do contain the standard."); *Etheredge v. Richland School Dist. I*, 499 S.E.2d 238, 330 S.C. 447 (S.C. App. 1998).

Here, Plaintiffs have alleged facts demonstrating that Defendants' own acts and omissions, independent of any third-party conduct, proximately caused Plaintiffs' injuries. Among other allegations, Plaintiffs assert that Defendants failed to implement reasonable safety measures, ignored foreseeable risks of harm, and neglected to comply with applicable standards and practices designed to protect the public. These allegations fit within the exceptions contemplated by the SCTCA and, if proven, would remove the immunity under S.C. Code Ann. §15-78-60(20).

Whether such exceptions apply under the SCTCA is a question of fact reserved for the jury. At the Rule 12 stage, the Court must accept Plaintiffs' allegations as true and draw all reasonable inferences in their favor. Under this standard, the pleadings establish a plausible basis for finding that an SCTCA exception applies, thereby precluding dismissal. The facts which the Plaintiffs have alleged in their complaint support an exception to S.C. Code Ann. §15-78-60(20), and thus the Court's reliance on this immunity provision as a dispositive ground for dismissal was in error.

**D. Dismissal of Isle of Palms Police Department Does Not Require Dismissal of Defendant City of Isle of Palms**

Defendants themselves acknowledged in their Motion to Dismiss that the City of Isle of Palms is the proper Defendant, not Isle of Palms Police Department:

“Courts applying the South Carolina Tort Claims Act (“SCTCA”) have routinely determined that the City is the only proper defendant under the SCTCA and have dismissed police departments based on that finding.” (*Def. Mtn. to Dismiss at 2*, citing *McCree v. Chester Police Dep’t*, 2021 WL 3711098 (D.S.C. 2021)).

Plaintiffs agree that City of Isle of Palms is the proper Defendant in this matter and will concede to the dismissal of Isle of Palms Police Department, as long as City of Isle of Palms remains a Defendant. This is consistent with Defendants’ own position and with the historical application of SCTCA in South Carolina.

Moreover, in *Dehn*, No. 2025-CP-10-00179, Order Denying MTD (July 31, 2025) (pending), a separate lawsuit arising from the same incident, “Senior Skip Day”, City of Isle of Palms remained as a defendant after Isle of Palms Police Department was dismissed. Treating similarly situated plaintiffs from the same event differently, without a substantive distinction, creates an unequal application of the law and warrants reconsideration.

### **CONCLUSION**

For the reasons outlined above, Plaintiffs respectfully request that this Court grant Plaintiffs Motion to Reconsider, Alter, and/or Amend its Order granting Defendants Motion to Dismiss pursuant to Rule 59(e), SCRCR, and reinstate Plaintiffs’ claims against Defendant City of Isle of Palms. This Motion is supported by the South Carolina Rules of Civil Procedure, applicable case law, pleadings filed in this matter, memorandum of law, proposed orders, and arguments by counsel. Plaintiffs further request a hearing on this motion.

Respectfully submitted this 13<sup>th</sup> day of August 2025 in Charleston, South Carolina.

**LAW OFFICE OF SEAN M. WILSON, LLC**

s/ Sean M. Wilson

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*Attorneys for Plaintiff*

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	C.A. No.: 2024-CP-10-00179
	)	
Julia Dehn,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
City of Isle of Palms and Isle of Palms	)	
Police Department,	)	
	)	
Defendant.	)	

**AFFIDAVIT OF ELIJAH YUNGWIRTH**

Personally, appeared before me, Elijah Yungwirth, who being duly sworn, states that:

1. I am over the age of eighteen (18) and am otherwise competent to provide this sworn statement under the penalty of perjury.
2. I swear and affirm that the statements contained herein are true and correct based upon my personal knowledge.
3. On April 7, 2023, I, along with my two young children and wife, was staying at the Sea Cabin condominiums located at the City of Isle of Palms beach.
4. My family and I were on the beach near the pier throughout the day.
5. I noticed a large crowd of teenage students gathering on the beach near the pier throughout the day.
6. There was very loud music, I could smell marijuana coming from the crowd, and the students were volatile the entire time they were on the beach.
7. As the crowd grew, I began seeing a few Isle of Palms police officers on the beach on four wheelers but at a distance of approximately forty yards from the crowd. There were also three or four Isle of Palms police officer vehicles located in the Sea Cabins parking lot. Additionally, there was at least one side-by-side on the beach.
8. The crowd of students continued to grow, and I walked up to a female police officer from the Isle of Palms Police Department, and she told me that it was "Senior Skip Day."
9. The crowd of students continued to grow in size and became more volatile after that point. I witnessed the Isle of Palms police officers make two arrests of the students in the

crowd during the day, but they did not disperse the crowd, and the crowd continued to grow in size.

10. My wife and children returned to the condo to get ready for dinner. At approximately 5:00 p.m., I went onto the pier overlooking the beach and the growing crowd of students. While I was on the pier and walking back toward the gate of the pier, I noticed a lot of commotion in the crowd of students, and the crowd of students began running and screaming.

11. I witnessed a female student attempt to jump over the railing on the side of the pier nearest the crowd and fall onto the pier. She was frantic and appeared to be in fear for her life. I walked to her and asked if she was okay. She got up and told me that she saw a gun in the crowd.

12. I opened the gate and walked down the steps into the Sea Cabins parking lot where three Isle of Palms police officers were standing by their vehicles. Two of them were engaged in conversation, but I notified the male officer who was not talking that the crowd had dispersed, and that I had seen a female student jump over the railing on to the pier, and that this female student stated that she saw a gun in the crowd.

13. The officer asked me if I personally was the one who witnessed the gun in the crowd, and I told him that I did not but it was the female student who fell onto the pier who had witnessed it. This City of Isle of Palms police officer who I provided notice to that there was a report of a gun in the crowd did not go onto the beach, and I did not witness him take any action in response to what I told him. I did not witness him use his radio or attempt to contact anyone else regarding this report of a weapon being in the crowd of students on the beach.

14. I returned to the condo after speaking with this officer. My family and I left our condo and began going down the stairway at approximately 5:24 p.m. As we descended the stairway, I heard shots from a firearm coming from the crowd on the beach, and my family and I began to take cover. I heard two bursts of separate shots coming from the beach. I took my family to another stairwell to try to protect them and witnessed several students and others from the beach running off the beach.

15. I went inside the condo and approximately thirty (30) minutes later, I saw a young man being medically treated in the Sea Cabins parking lot, who appeared to have been shot, and there was a group of the students from the beach surrounding him and appeared to be yelling at him.

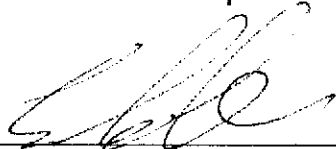
16. The next morning on April 8, 2023, my wife had seen news reports asking for anyone who had information about the shooting to contact the Isle of Palms Police Department. My wife called and spoke with Amanda Postell with the Isle of Palms Police Department at 1:18 p.m. and sent a 57 second video to the Isle of Palms Police Department via facebook messenger. She also sent another video that was 41 seconds long. These videos were from the date of the

incident and showed the growing crowds on the beach. Following that, my wife received an automated reply. She called the Isle of Palms Police Department and notified them that I had drone footage of the crowd and other information about the events the day before.

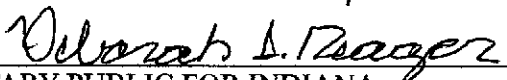
17. Amanda Postell and a male police officer met with me at our condo. I provided them with a SD memory card of all of the drone footage that I took on April 7, 2023.

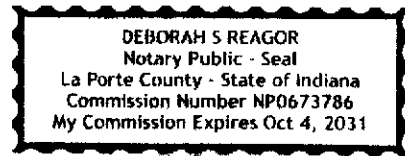
18. I had seen this male officer in the parking lot of the Sea Cabins following the shooting on April 7, 2023 holding a long gun and assisting with dispersing the crowd. I told him that I had seen him with a long gun following the shooting, and he told me that he wished they had had the long guns on the beach prior to the shooting.

19. I provided Ms. Postell and this officer with the memory card of the drone footage from April 7, 2023, and I asked that they return the memory card to me. The memory card was never returned to me and it is my understanding that it is still in the possession of the Isle of Palms Police Department.

  
\_\_\_\_\_  
Elijah Yungwirth

Sworn to and subscribed before me  
this 11<sup>th</sup> day of July, 2025

  
\_\_\_\_\_  
NOTARY PUBLIC FOR INDIANA  
My Commission Expires: 10-4-31



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2025-CP-10- _____
	)	
Teqyah Campbell and Lamona Armstrong, as parent	)	
and Legal Guardian of R.C., a minor	)	
	)	
Plaintiffs,	)	<b>SUMMONS</b>
	)	
v.	)	
	)	
City of Isle of Palms and Isle of Palms Police Dept.	)	
	)	
Defendants.	)	

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**TO THE DEFENDANTS ABOVE-NAMED:**

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve your Answer to the Complaint upon the subscriber at his office addressed at 219 Calhoun Street, Charleston, SC 29401 within thirty (30) days after the service hereof, exclusive of the day of service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff will move the Court for the relief demanded in the Complaint.

**LAW OFFICE OF SEAN M. WILSON, LLC.**

s/Sean M. Wilson

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February 24, 2025  
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2025-CP-10- _____
	)	
Teqyah Campbell and Lamona Armstrong, as parent	)	
and Legal Guardian of R.C., a minor	)	
	)	
Plaintiffs,	)	<b>COMPLAINT</b>
	)	(Jury Trial Demanded)
v.	)	
	)	
City of Isle of Palms and Isle of Palms Police Dept.	)	
	)	
Defendants.	)	

The Plaintiffs above named, complaining of the Defendants herein, would respectfully show unto this Honorable Court and alleges as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff, Teqyah Campbell, is a citizen and resident of Charleston County, South Carolina.
2. Plaintiff Lamona Armstrong is the parent and legal guardian of R.C., a minor, and is a citizen and resident of Charleston County, South Carolina.
3. Defendant City of Isle of Palms (hereinafter referred to as “the City”) is a political subdivision of the State of South Carolina as defined in § 15-78-10 *et seq.* of the Code of Laws of South Carolina. At all times herein mentioned, the City acted and carried on its business by and through its agents, servants, and/or employees at various locations within Charleston County, South Carolina and has its principal place of business in Charleston County, South Carolina.
4. Defendant Isle of Palms PD (hereinafter referred to as “IOP PD”) is a political subdivision of the State of South Carolina as defined in § 15-78-10 *et seq.* of the Code of Laws of

South Carolina. At all times herein mentioned, IOP PD acted and carried on its business by and through its agents, servants, and/or employees at various locations within Charleston County, South Carolina and has its principal place of business in Charleston County, South Carolina.

5. This action is brought under the common and statutory law of South Carolina, including, but not limited to South Carolina Code § 15-78-10 *et seq.*, more commonly known as the South Carolina Tort Claims Act. Jurisdiction is founded upon the above common law and statutory provisions.

6. The incident(s) giving rise to this action occurred in Charleston County, South Carolina.

7. Venue and jurisdiction are proper for the foregoing reasons.

**FACTUAL ALLEGATIONS**

8. The Plaintiffs reiterate each and every allegation above as if repeated verbatim herein.

9. The beach on the Isle of Palms is public property which is intended or permitted to be used as an open area for recreational purposes.

10. The City and IOP PD are responsible for security and supervision of the public beach on the Isle of Palms.

11. Well before April 7, 2023, the City and IOP PD long had actual notice of “Senior Skip Day,” a tradition that occurs every year on the public beach of the Isle of Palms, in which senior students from surrounding high schools skip school for the day and travel to the public beach of the Isle of Palms to congregate and party in large groups.

12. Well before April 7, 2023, the City and IOP PD long had actual notice that during “Senior Skip Day,” large groups of senior students would illegally drink alcohol, consume illegal drugs, become violent, and use guns on the public beach of the Isle of Palms, including the following communication of record in another matter filed in Charleston County Common Pleas styled Dehn v.

City of Isle of Palms and City of Isle of Palms Police Department, Case No. 2025-CP-10-00179

(“Dehn Case”):

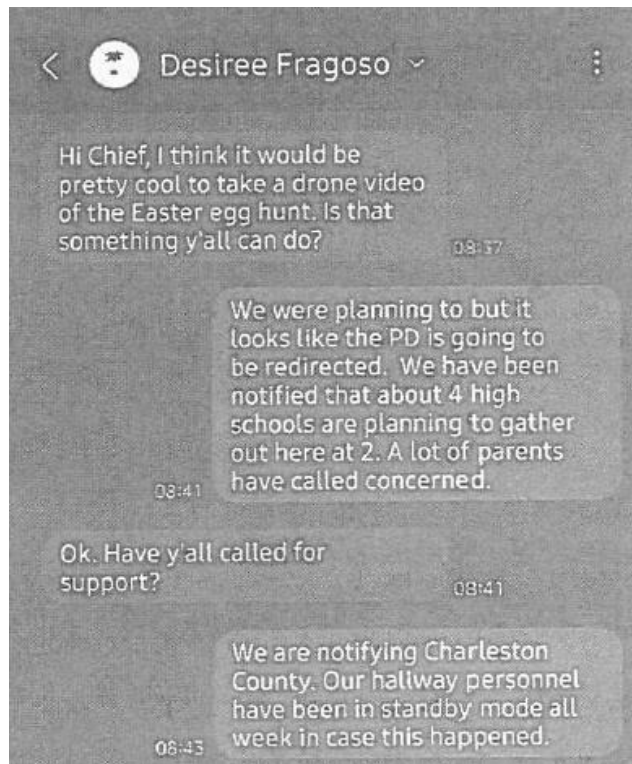
-----Original Message-----  
From: phillip holley <hpj54321@yahoo.com>  
Sent: Saturday, April 8, 2023 11:28 AM  
To: Phillip Pounds <ppounds@iop.net>  
Subject: [EXTERNAL] Police response

\*\*\* [EXTERNAL] \*\*\*

Phillip. I am a thirty year resident. As everyone takes a victory lap, it would seem your 30 policeman could control and or disperse a group of teenage students. **This gathering occurs every year and violence has broken out along with shootings in the past.**

Sent from my iPhone

13. On or before April 7, 2023, the City and IOP PD received actual notice that “Senior Skip Day” would once again occur on the public beach of Isle of Palms on April 7, 2023. The City and IOP PD received actual notice of this large gathering of teenagers through concerned parents, other members of the public, and social media as reflected in the filings of the Dehn Case:



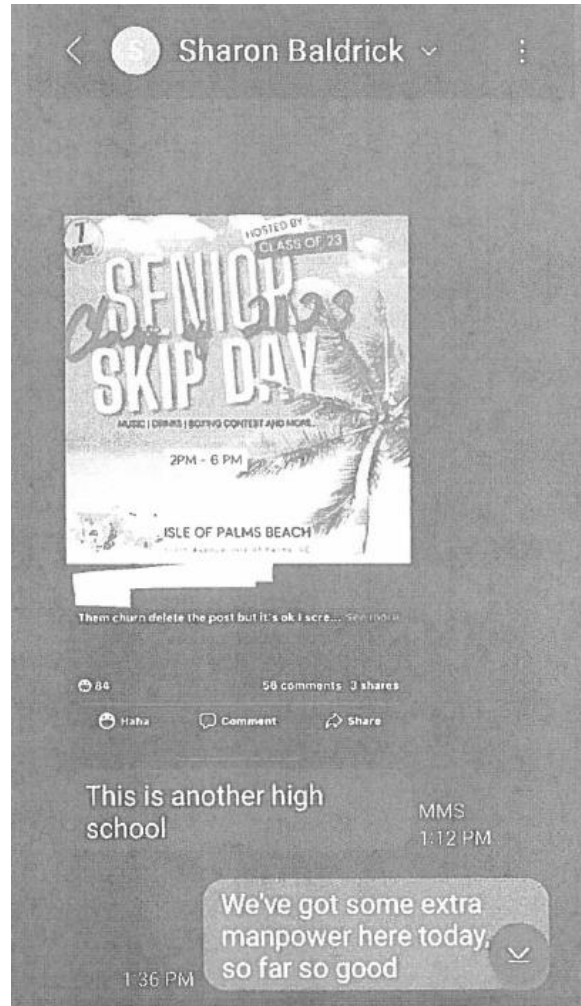
A screenshot of a text message conversation on a mobile phone. The contact name is "Desiree Fragoso". The messages are as follows:

08:37: Hi Chief, I think it would be pretty cool to take a drone video of the Easter egg hunt. Is that something y'all can do?

08:41: We were planning to but it looks like the PD is going to be redirected. We have been notified that about 4 high schools are planning to gather out here at 2. A lot of parents have called concerned.

08:41: Ok. Have y'all called for support?

08:43: We are notifying Charleston County. Our hallway personnel have been in standby mode all week in case this happened.



14. The City and IOP PD increased police presence on the public beach on April 7, 2023 but, despite actual notice of the event, did not provide enough police to control and disperse the growing crowd as reflected in the following, of record in the Dehn Case:

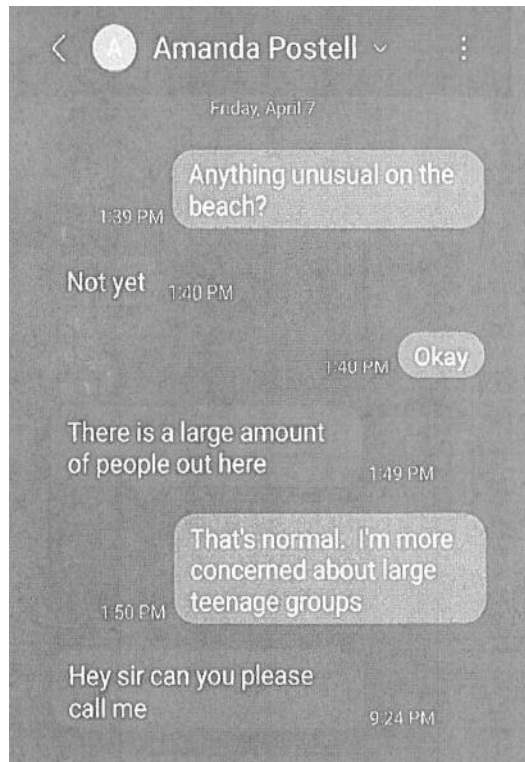
April 8, 2023  
**PRESS RELEASE**  
For Immediate Release

Contact:  
Chaundra Mikell-Yudchenko  
Public Relations & Tourism Coordinator  
(854) 837-2330  
chaundram@iop.net

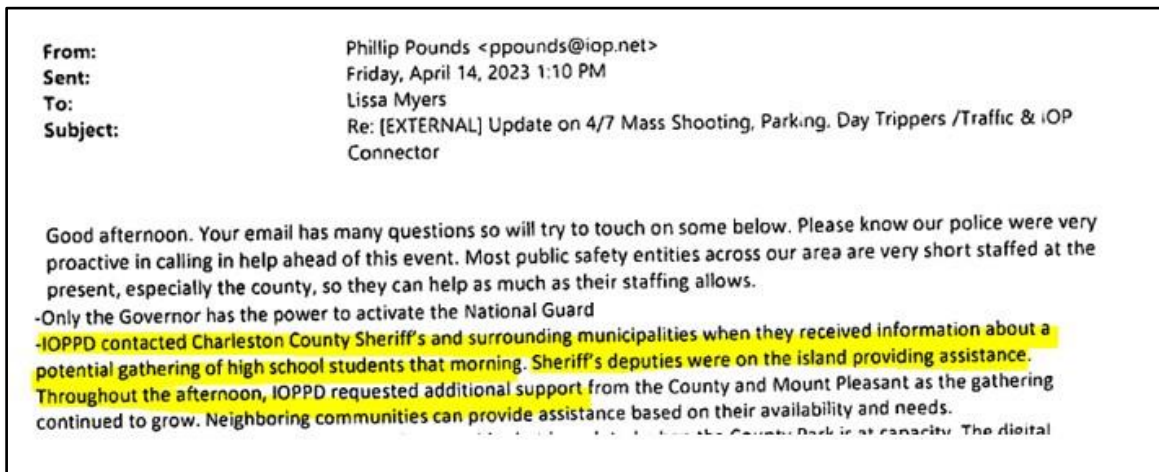
City of Isle of Palms Provides Update on Beach Incident  
Encourages Use of Emergency Tip Line

A heightened police presence had already been implemented on the beach prior to the incident, due to many area schools being on spring break. Once the IOPPD was notified of 'Senior Skip Day' taking place on the beach, more officers from around the area were called on to assist.

15. Despite IOP PD's prior notice of this yearly event and IOP PD's police presence on the beach, the City and IOP PD allowed the crowd to grow out of control.



16. Rather than increase their own personnel to respond to the unruly crowd of teenagers on the public beach, the City and IOP PD contacted surrounding agencies to ask for assistance, with these agencies being unable to provide sufficient personnel, e.g. see following from the Dehn Case:



17. The crowd became so large and unruly with intoxicated students that crime and

violence ensued while the City and IOP PD stood by and failed to respond to the obviously dangerous condition. Several fights broke out throughout the day, and yet the City and IOP PD continued to fail to disperse the crowd or adequately control the teenagers:



18. Despite knowing the high school students and group participating in the “Senior Skip Day” were drinking alcohol, doing drugs, fighting, and had access to firearms in a mass gathering, the IOP PD failed to supervise the students, failed to restrict access to the beach, failed to control and respond in a reasonable time to the growing and violent crowd, and failed to supervise, warn, and protect the innocent beachgoers.

19. On or about April 7, 2023, Plaintiff Teqyah, then a minor, and R.C., still a minor, were enjoying a day at the beach on the Isle of Palms.

20. As a result of the City and IOP PD’s failure to timely respond to the dangerous condition of the “Senior Skip Day” and failure to supervise, protect, and control the students, a high

school student participating in Senior Skip Day, Davion Bobby Del’Shawn Singleton (hereinafter “Singleton”) discharged his firearm, injuring several people, including Plaintiff Teqyah and minor R.C.:



### 5 victims in Isle of Palms shooting, police say; 28-year-old still hospitalized



21. Plaintiffs Teqyah and R.C. suffered traumatic, life-changing, severe injuries. Plaintiff R.C. also sustained a gunshot wound to his right shoulder and a highly comminuted ballistic fracture of the proximal humeral shaft. He was transported to MUSC for immediate medical care

### **FIRST CAUSE OF ACTION** **(Negligence and Gross Negligence)**

22. The Plaintiffs reiterate each and every allegation stated above as if repeated verbatim herein.

23. The Defendants had certain duties imposed upon them with regard to the Plaintiffs, through their voluntary undertaking, special relationships, and special circumstances.

24. The Defendants had the duties to supervise, protect, and control the students participating in “Senior Skip Day,” including Singleton.

25. The Defendants had the duties to provide security and supervision of the public beach of the Isle of Palms and to correct any dangerous conditions on the public beach within a reasonable time after actual notice of the conditions.

26. The above set forth incidents which resulted in the Plaintiffs’ damages were proximately caused by the negligent, grossly negligent, reckless, willful and wanton acts of the Defendants in the following particulars:

- a. In failing to provide the appropriate reasonable and necessary protection and care to the Plaintiffs;
- b. In failing to properly supervise and control the individuals participating in “Senior Skip Day”;
- c. In failing to disperse the crowd or otherwise respond to the dangerous condition of “Senior Skip Day” within a reasonable time after actual notice of the condition;
- d. In failing to follow and adhere to the local state and national standards, policies and procedures including the policies and procedures of Isle of Palms Police Department;
- e. In failing to properly train, monitor and supervise its personnel agents and/or employees so as to ensure the safety of the Plaintiffs when they had proper notice of threats of harm to Plaintiffs and unreasonable risk of injury and harm to Plaintiffs;

- f. In failing to have appropriate policies and protocols in place to provide for the safety and wellbeing of the Plaintiffs;
- g. If such polices exist, in consciously failing to follow the same;
- h. In failing to properly train monitor and/or supervise its employees, agents and/or staff to ensure that the Plaintiffs were protected from harm;
- i. In failing to restrict access to the beach on the Isle of Palms;
- j. In failing to control and respond in a reasonable time to the growing, violent crowd of high school students;
- k. In failing to protect the Plaintiffs;
- l. In failing to warn the Plaintiffs;
- m. In failing to have sufficient police presence on the beach despite notice and warnings of this event beforehand;
- n. In failing to properly and sufficiently investigate the incident involving the Plaintiffs;
- o. In failing to properly protect the Plaintiffs and take the proper steps to provide assistance to them when they knew or should have known that they was in such a state that they were unable to protect themselves;
- p. In failing to properly train, supervise and/or monitor its employees, agents, and/or staff, so as to ensure that the general public (including the Plaintiffs) were provided with proper care and protection.

27. As a proximate and direct result of the Defendant's reckless, willful and wanton, and grossly negligent conduct the Plaintiffs were severely injured, including but not limited to becoming the victim of a shooting which required needless physical and mental suffering and

injuries, and medical expenses and emotional and psychological injuries and damages that have been incurred and will be incurred in the future, and permanent impairment and disability.

28. The Plaintiffs have alleged multiple “occurrences” as the term is used under the South Carolina State Tort Claims Act, and accordingly, the Plaintiffs may obtain an award against the Defendants in excess of one million dollars even if the Defendants are entitled to the protection of any caps pursuant to the South Carolina State Tort Claims Act. *Boiter v. S.C.D.O.T.*, 393 S. C. 123, 125 (2011); *Chastain v. Anmed Health Found.*, 388 S.C. 170, 174, 694 S.E.2d 541, 543 (2010) (“more than one single act of negligence” constitutes multiple occurrences). The Plaintiffs asks that the jury be charges on the definition of occurrences and determine the number of occurrences at trial.

WHEREFORE, Plaintiffs prays for judgment against the Defendants, for an award of all available, actual, and consequential damages, the cost of this action, and for such other and further relief as the court deems just and proper.

Respectfully submitted,

**LAW OFFICE OF SEAN M. WILSON, LLC.**

s/Sean M. Wilson

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***Attorneys for Plaintiff***

February 24, 2025  
Charleston, South Carolina

/s/ Sean M. Wilson Sean M. Wilson, SC Bar No. 101430



Reconsider should be denied because she failed to properly serve the Court with the Motion pursuant to SCRCP Rule 59(g).<sup>1</sup>

**II. The Plaintiff has not shown that she is entitled to relief under Rule 59, SCRCP.**

Even if the Court finds that it was properly served with the Plaintiff's Motion, the South Carolina Supreme Court has held that Rule 59(e) Motions are proper when a party "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." Elam v. S.C. Dep't of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). The Court's record in this case reflects that the Court did not misunderstand, fail to fully consider, or fail to rule on any issue presented by the parties. A party's dissatisfaction with the outcome of the underlying litigation and the instant action is not grounds for relief under Rule 59. Id.

Defendants filed their Motion to Dismiss on March 28, 2025 and subsequently filed a Memorandum in Support on July 30, 2025. Plaintiff filed her Memorandum in Opposition on August 1, 2025. With the Defendants' Motion fully briefed by the parties, the Court held a hearing on the Motion on August 5, 2025 where counsel for all parties presented their arguments. On August 5, 2025, the Court notified the parties that Defendants' Motion was granted by Form 4 Order.

The Court subsequently entered the full Order of Dismissal on August 11, 2025.<sup>2</sup> In its Order, the Court cited specifically to the allegation in Plaintiff's Complaint that "a high school student... 'discharged his firearm, injuring several people,' including the Plaintiffs." In other words, according to the Court, "Plaintiffs' Complaint alleges that Plaintiffs were injured by a high

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<sup>1</sup> This argument is premised on the assumption that the Plaintiff did not have any ex parte communications with the Court.

<sup>2</sup> The Court's Order notes that the Court's ruling was made "[u]pon careful consideration of all briefs and submissions, as well as the arguments of counsel at the hearing."

school student when the student discharged his firearm into a crowd on a public beach.” Because the gunman’s actions were the cause of the Plaintiff’s loss, the Court found that “S.C. Code Ann. 15-78-60(20) bars Plaintiffs’ claims against the Defendants.” The Court’s ruling was directly based on the arguments raised in the Defendants’ Motion to Dismiss. See S.C. Code § 15-78-200 (stating that the Act’s provisions “must be liberally construed in favor of limiting the liability of a governmental entity”).

Plaintiff’s argument that the gross negligence standard should be read into subsection S.C. Code Ann. § 15-78-60(20) cannot serve as a basis for reconsideration because it is simply a restatement of the argument previously asserted in her Opposition to Defendants’ Motion. See Exxon Shipping Co. v. Baker, 554 U.S. 471, 485 n.5 (2008) (holding that a party may not use a Rule 59 motion to relitigate old matters). Nevertheless, this argument fails to defeat Defendant’s Motion because the exception to liability is not based on conduct of the Defendants’ employee. This exception, rather, is based on the conduct of a third person, and whether Defendants were grossly negligent is irrelevant. The application S.C. Code Ann. § 15-78-60(20) removes any duty owed by the Defendants to the Plaintiff. See Simmons v. Tuomy Reg’l Med. Ctr., 341 S.C. 32, 39, 533 S.E.2d 312, 316 (2000) (“The Court must determine, as a matter of law, whether the law recognizes a particular duty. If there is no duty, then the defendant in a negligence action is entitled to a judgment as a matter of law.”); Ellis v. Niles, 324 S.C. 223, 227, 479 S.E.2d 47, 49 (1996) (“Whether the law recognizes a particular duty is an issue of law to be determined by the court.”); Town of Summerville v. City of N. Charleston, 378 S.C. 107, 110, 662 S.E.2d 40, 41 (2008) (observing that, “[d]etermining the proper interpretation of a statute is a question of law”). Moreover, this argument ignores the Plaintiff’s allegations in her Complaint that her injury was proximately caused by a high schooler who committed a mass shooting. See Young v. Tide Craft,

Inc., 270 S.C. 453, 462, 242 S.E.2d 671, 675 (1978) (“the touchstone of proximate cause in South Carolina is foreseeability”).

Finally, even accepting the Plaintiff’s argument that gross negligence should be read into each of the exceptions to the waiver of immunity included in the Defendants’ Motion, the resulting analysis does not automatically require the Court to reconsider its Order. The facts alleged in the Plaintiff’s Complaint show the Defendants’ exercise of *at least* slight care such that the Court’s dismissal of Plaintiff’s claims remains appropriate. For instance, the Plaintiff alleges that Defendants, upon receiving notice of the “Senior Skip Day,” redirected their resources for “extra manpower” and called in local law enforcement from the area. These allegations preclude Plaintiff from showing the absence of slight care as is required to prove a gross negligence claim. See Etheredge v. Richland Sch. Dist. One, 341 S.C. 307, 310, 534 S.E.2d 275, 277 (2000) (observing that, “while gross negligence ordinarily is a mixed question of law and fact, when the evidence supports but one reasonable inference, the question becomes a matter of law for the court”). The Plaintiff’s Motion to Reconsider should therefore be denied.

### **III. Plaintiff’s attempt to introduce evidence to support her Motion to Reconsider is improper.**

Plaintiff’s second ground for reconsideration is “newly discovered evidence.” She asserts that she obtained a witness affidavit “filed in the related *Dehn* [ ] litigation.” However, as reflected on the face of the affidavit filed with Plaintiff’s Motion, this affidavit that the Plaintiff asserts is “newly discovered evidence” was filed in the Dehn matter on July 17, 2025 – more than two weeks prior to the Plaintiff’s filing of her memorandum in opposition to the Defendant’s Motion. The Plaintiff, moreover, may not raise this issue for the first time in her motion to reconsider. See Commercial Credit Loans, Inc. v. Riddle, 334 S.C. 176, 186, 512 S.E.2d 123, 129 (Ct. App. 1999) (“Further, because the transcript of the proceedings below is omitted from the record, it appears

the first time [plaintiff] made this argument was in its Rule 59(e) motion for reconsideration. Accordingly, this issue is not properly preserved for our review.”). The Plaintiff’s Motion to Reconsider should therefore be denied.

**IV. Plaintiff’s argument that the City of Isle of Palms is the proper Defendant is raised for the first time in their Motion to Reconsider.**

The Plaintiff asserts that “Defendants themselves acknowledged...that City of Isle of Palms is the proper Defendant” in this case. Plaintiffs raise this argument for the first time in their Motion to Reconsider, and, as such, this argument is improper for the reasons stated above. Nevertheless, in asserting that the City’s Police Department was an improper defendant under the South Carolina Tort Claims Act, the City did not waive the numerous SCTCA immunities cited in its Motion to Dismiss. These immunities are equally applicable to the City and its Police Department. The Court’s consideration of these arguments and dismissal of the Plaintiff’s claims based on the same was therefore appropriate.

**V. Plaintiff’s “unequal application of the law” argument does not justify reconsideration of the Court’s Order.**

The Plaintiff argues that “dismissal of Plaintiffs’ claims while permitting similarly situated plaintiffs, arising from the same incident involved the same Defendant to proceed, creates an inequitable disparity and inconsistent application of the law.” The Plaintiff fails to cite to any binding or controlling legal authority for this argument. The Plaintiff also fails to cite to any binding or controlling legal authority overlooked or disregarded by the Court as to the claims in her Complaint. Circuit Court orders, such as that referenced by the Plaintiff, hold no precedential value and do not require this Court’s reconsideration of its Order dismissing the Plaintiff’s claims. In sum, the Plaintiff has not provided the Court with any legally supported justification for reconsidering its August 11, 2025 Order, and the Plaintiff’s Motion should therefore be denied.

**CONCLUSION**

Based on the grounds cited above, the filings in the Court’s record, arguments of counsel at the hearing on the Defendants’ Motion, and for the reasons so stated in the Court’s Order granting the Defendants’ Motion, the Defendants respectfully request that the Court deny the Plaintiff’s Motion to Reconsider, Alter or Amend.

Respectfully submitted this the 18<sup>th</sup> day of September, 2025.

**RICHARDSON, PLOWDEN & ROBINSON**

*s/Drew Hamilton Butler*

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***ATTORNEYS FOR DEFENDANTS***

STATE OF SOUTH CAROLINA

DOCKET NUMBER  
2025-CP-10-01024

COMMON PLEAS

COUNTY OF CHARLESTON

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TEQYAH CAMPBELL AND LAMONA	)
ARMSTRONG, AS PARENT AND LEGAL	)
GUARDIAN OF R.C., a minor,	)
Plaintiff,	)
	)
vs.	)
	)
CITY OF ISLE OF PALMS AND ISLE OF	)
PALMS POLICE DEPARTMENT,	)
Defendant.	)
	)
	)

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August 4, 2025

MOTION TO DISMISS

B E F O R E:

The Honorable Benjamin H. Culbertson, Presiding Judge.

C O U R T:

South Carolina Circuit Court 15

T R A N S C R I B E D B Y:

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P R O C E E D I N G S

(Whereupon, the following proceedings started at 0:08:53)

THE COURT: All right. Next on my roster is --

(Pause.)

THE COURT: -- 2025-CP-10-01024; Teqyah Campbell and Lamona Armstrong versus City of Isle of Palms and Isle of Palms Police Department.

If you're involved in that, please raise your hand.

(Pause.)

THE COURT: All right. Is this everyone?

MR. WILSON: Yes. Good afternoon, Your Honor.

THE COURT: Good afternoon.

As I said, this is 2025-CP-10-01024. Teqyah Campbell and Lamona Armstrong versus City of Isle of Palms and Isle of Palms Police Department.

According to my roster, this is the defendant's Motion to Dismiss.

Please state for the record your name and who you represent.

MR. HAARSGAARD: Good afternoon, Your Honor. James Haarsgaard for the defendants, Isle of Palms and Isle of Palms Police Department.

May it please the Court.

This case arises out of an April 7, 2023 --

THE COURT: Excuse me for the interruption.

1 All right. Mr. Wilson, do you represent the plaintiff?

2 MR. WILSON: Yes. Good afternoon, Your Honor.

3 Yes. That is correct. I represent the plaintiff on this  
4 particular matter.

5 THE COURT: All right.

6 Mr. Haarsgaard, let me hear your argument now. Go ahead.

7 MR. HAARSGAARD: Yes, Your Honor. I apologize for  
8 jumping ahead.

9 This is the IOP and IOPPD's Motion to Dismiss. Your  
10 Honor, this case involves an April 7th, 2023 incident that  
11 occurred on a public beach on the Isle of Palms. It involved  
12 a high school student who opened fire on a beach on the Isle  
13 of Palms, and it occurred when a massive group of students  
14 congregated on the beach in the middle of the afternoon for  
15 Senior Skip Day.

16 The plaintiffs allege that the City and the city's police  
17 department was notified on the date of the incident that the  
18 students may gather on the beach. They allege further that  
19 IOPPD, once receiving that notification, reallocated resources  
20 for extra manpower to address the individuals congregating on  
21 the beach. They also called area law enforcement agencies for  
22 extra manpower. So not only did they allocate their  
23 resources, but sought other resources outside of those at  
24 their disposal.

25 The gunman was subsequently charged with five counts of

1 attempted murder. And those charges remain pending. The  
2 plaintiff -- the plaintiffs filed this action on February 24  
3 of 2025. They've alleged one Cause of Action for  
4 negligence/gross negligence. That's just how it's styled.

5 Your Honor, we submitted a Motion to Dismiss and then a  
6 Memorandum in Support. The memorandum sets out our grounds  
7 for the Motion to Dismiss. It incorporates the allegations  
8 within the four corners of the plaintiff's Complaint. And I  
9 won't rehash all of those for Your Honor, but I'll hit mainly  
10 the highlights.

11 The first being the IOP Police Department is an improper  
12 defendant, when claims are claims are asserted against the  
13 City of Isle of Palms. It's been held in many cases that a  
14 Police Department is not the proper defendant, but rather the  
15 municipality of -- or for which the police department serves  
16 is the proper defendant under the Tort Claims Act.

17 The second ground for dismissal of the claims against  
18 both defendant is mainly the -- Subsection VI, and that's  
19 15-78-60, Subsection VI of the South Carolina Tort Claims Act,  
20 which provides that the town or the City is immune from  
21 liability for loss resulting from the manner of providing  
22 police protection or the -- even a failure to -- of providing  
23 police protection.

24 It's clear from the allegations in the plaintiff's  
25 Complaint that the failure of IOPPD to protect the plaintiffs

1 from the injuries that they sustained is the basis of their  
2 negligence and gross negligence claims. But as I stated, the  
3 immunity provision under the Tort Claims Act with regard to  
4 the manner of providing police protection is unequivocal that  
5 the City does not -- or is not liable for its failure or the  
6 manner in which it provides police protection.

7 And the same thing, Your Honor, I would reference  
8 15-78-20, Subsection F, which, as I'm sure the Court is aware,  
9 the Tort Claims Act has -- is -- there's a provision that  
10 states that it should be treated -- or the immunities  
11 thereunder should be liberally construed.

12 And so we would argue, even with the most conservative  
13 construction of Subsection VI, according to the allegations in  
14 the plaintiff's Complaint, the City and its police department  
15 are immune under that provision.

16 And then, Your Honor, we go on in the Memo to cite  
17 other immunity provisions under that -- 15-78-60. The only  
18 other one that I had mentioned today is the criminal acts of  
19 third parties, that the City's not responsible for criminal  
20 acts of third parties. And quite clearly here, the injuries  
21 sustained by the plaintiffs were the result of the criminal  
22 acts of that student in firing his weapon on a public beach.

23 The second main argument I wanted to hit during this  
24 hearing is the Public Duty Rule. And it goes to the  
25 Subsection VI in the Tort Claims Act. I think they're,

1 generally -- the same intent behind those two laws is to limit  
2 liability on the part of cities and their police departments  
3 for criminal actions of third persons. And you know, I -- you  
4 know, to rule otherwise, we'd be in a world where any crime  
5 victim could sue the Police Department. And it appears from  
6 plaintiff's Complaint, at least, that anyone on that beach  
7 that day could sue IOP Police Department, based on the  
8 allegations asserted by plaintiffs. And the Public Duty Rule  
9 just basically holds that the general public is not owed a  
10 duty by the Police Department or any cities.

11 And this case fits squarely into that category, because  
12 the simply members of the public in a public space around many  
13 other individuals at the time that this incident occurred.  
14 There's not statutory or special duty owed to them in this  
15 case. And we would therefore ask that the -- in accordance  
16 with the Tort Claims Act and the Public Duty Rule, that the  
17 plaintiffs' claims be dismissed against both IOP and IOP  
18 Police Department.

19 THE COURT: All right.

20 Mr. Wilson, let me hear from you.

21 MR. WILSON: Thank you, Your Honor. I appreciate you  
22 accommodating us today.

23 I will first argue that we do not concede to the Motion  
24 to Dismiss. We think that this is a issue that needs to be  
25 resolved from an actual jury and not based on the actual

1 Motion to Dismiss.

2 We don't have any arguments with regards to, if Isle of  
3 Palms, the City, is the proper defendant, we would be amenable  
4 to relieving the police department. However, we want to make  
5 sure that the Isle of Palms is still served and still in the  
6 case as the proper defendant. So that's in -- that's one of  
7 the things that we want to do.

8 Here, we don't think that the Motion to Dismiss is based  
9 on -- has a basis in this particular case. We believe that a  
10 Motion to Dismiss pursuant to Rule 12(b)(6) must be based  
11 solely on allegations set forth in the Complaint and must  
12 presume all well-pled facts to be true. Generally,  
13 considering a Rule 12(b)(6) Motion to Dismiss, the Court's  
14 must be based in its ruling solely upon allegations set forth  
15 in this actual complaint.

16 We believe that we have alleged negligence in this  
17 particular action and also gross negligence in this particular  
18 action. And furthermore, the Complaint also should not be  
19 dismissed merely because the Court doubts the plaintiffs will  
20 prevail in this action. Despite having so, we've also alleged  
21 gross negligence in this particular action, as we submitted an  
22 Memo of Opposition -- and all of these arguments are actually  
23 made in our Memo of Opposition -- but we submitted a gross  
24 negligence argument. We believe that because the Isle of  
25 Palms was actually gross negligence, creating a factual issue

1 for the jury and precluding a dismissal at the pleading state,  
2 we believe this need to heard by an actual jury as well.

3 We dispute every single statutory argument that the  
4 Defense made with regards to this. And I don't want to  
5 belabor you-all. We're all (indiscernible). But it's all  
6 written in the actual Memo in Opposition. But we believe  
7 because of our gross negligence arguments that we should not  
8 be dismissed in this particular case.

9 The law cited by Isle of Palms is not contextually  
10 accurate. We disagree with them. We believe that Isle of  
11 Palms is applicable in this case as the -- we believe another  
12 exception under the SETCA cited by the Isle of Palms is  
13 applicable in this case and as grounds for dismissal as the  
14 case also contains an exception within that present -- that  
15 presents factual issues for the jury and precludes dismissal.

16 Isle of Palms claims that they are immune from liability  
17 based on the Code Section 15-78-60, Section 16. The Section  
18 states that, "A governmental entity is not liable for a loss  
19 resulting from maintenance, security, or supervision of any  
20 public property intended or permitted to be used as a park,  
21 playground, or an open area for recreational purposes unless  
22 the defect or condition causing a loss is not corrected by a  
23 particular government entity responsible maintenance or  
24 security or supervision within a reasonable time after actual  
25 notice of the defect or condition."

1           As a particular example of gross negligence, the  
2 Complaint alleges that the Isle of Palms was grossly negligent  
3 in failing to disperse the crowd or otherwise respond to the  
4 damaged condition of Senior Skip Day within a reasonable time  
5 after actual notice of condition. We believe that the notice  
6 of the dangerous conditions on the beach on April 7th was  
7 actually given. And there was a post on actual flyers that  
8 talked about Senior Skip Day with a lot of groups of senior  
9 students, and allegedly, they were going to drink alcohol and  
10 consume illegal drugs. And we believe that there was enough  
11 notice put on the Isle of Palms.

12           THE COURT: Well, Mr. Wilson, how -- why isn't this  
13 banned by the Tort Claims Act that says they're not liable for  
14 the criminal activities of third-parties?

15           MR. WILSON: Well, we argue more so based on the gross  
16 negligent matter of the -- because the notice actually put the  
17 City of Isle of Palms on notice, that they knew that this  
18 activity was going to be taking place. We argue that they had  
19 enough notice based on the flyer, based on the online,  
20 entertainment brochures that were going out, that -- in fact,  
21 we would also argue that the City Isle of Palms put out extra  
22 presence of police, based on the notice that they were  
23 actually obtained. So we believe that they had enough notice  
24 that something tortious could actually happen.

25           THE COURT: Well -- and I understand that, but the fact

1 is, your clients' damages arose out of being shot by a third  
2 party; correct?

3 MR. WILSON: Correct.

4 THE COURT: Okay.

5 All right. Mr. Haarsgaard, anything in reply?

6 MR. HAARSGAARD: Your Honor, I would just reiterate on  
7 that criminal acts of third parties -- (indiscernible) --

8 THE COURT: What is that subsection? Can you read me  
9 exactly what it says?

10 MR. HAARSGAARD: Yes, Your Honor.

11 (Pause.)

12 MR. HAARSGAARD: So 15-78-60 reads: "The government  
13 entity is not liable for a loss resulting from --" and then  
14 Subsection 20 states, "An act or a mission of a person, other  
15 than an employee, including but not limited to the criminal  
16 actions of third parties."

17 So, Your Honor, even if, you know, we can accept for a  
18 moment that the Complaint alleges that the City is responsible  
19 for not breaking up the congregation of people on the beach, I  
20 think it's a little bit of a far jump to say that people  
21 gathering on a beach made it foreseeable that someone out  
22 there would commit a mass shooting. And so that's -- I mean,  
23 that's essentially what I think the plaintiffs are trying to  
24 argue in this case.

25 And to hold the IOPPD responsible for someone committing

1 a mass shooting, I mean, it's a dangerous precedent for one;  
2 but for two, given the other facts that were pled by the  
3 plaintiffs, including the fact that when the City was put on  
4 notice, they all their resources, and they even went out and  
5 got additional resources from surrounding agencies. I think  
6 there's no doubt that gross negligence -- a cause of action  
7 with gross -- of gross negligence would fail, based on the  
8 facts pled in the plaintiffs' Complaint.

9 THE COURT: All right.

10 All right. I'm going to grant the Motion to Dismiss.

11 Mr. Haarsgaard, if I could get you to prepare an order.

12 And the sole reason I am dismissing it is, I think it  
13 falls under Torts Claim Act. And the damages sustained by the  
14 plaintiff were caused -- approximately caused by the criminal  
15 activity of a third party.

16 MR. HAARSGAARD: Yes, Your Honor.

17 THE COURT: All right?

18 MR. HAARSGAARD: So the proposed order, just to be clear,  
19 should cite only to that Subsection 20, rather than the others  
20 that I've cited --

21 THE COURT: Yeah.

22 MR. HAARSGAARD: -- in our memo?

23 THE COURT: Yeah. Yeah. I'm doing it because of the  
24 criminal activity of third parties.

25 All right?

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MR. HAARSGAARD: Yes, Your Honor. Thank you.

THE COURT: Thank you.

MR. WILSON: Thank you, Your Honor.

(At 0:25:22, the hearing concluded.)

**END OF TRANSCRIPT.**

## CERTIFICATE OF TRANSCRIBER

State of South Carolina

County of Charleston

I, BARBIE TEBOE, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings and evidence introduced in the trial of the captioned case, in the Court of Common Pleas for Charleston County, South Carolina, on the 4th day of August, 2025.

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

December 11, 2025



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Barbie Teboe,  
Transcriber