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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

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

Case No. 2021-CP-21-02121

(Appellate Case No. 2024-001454)

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

v.

Florence County School District One *and* Florence County Sheriff's Department ……Respondent.

FINAL REPLY BRIEF OF APPELLANT

Hannah L. Secka (*Pro se litigant*)
(Moudou-Yasen Nasir Secka) Age 21
(*Pro se disabled litigant*)
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April 21, 2026

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~ STATEMENT OF ISSUES ON APPEAL ~

1. Did Judge Michael G. Nettles, 12th Circuit Court legally and ethically changed his Order dated 2/27/2024 **DENYING** Summary Judgment to the District without using the proper Appeal process as an *error of law*? *Rule 60(b)(1-5)*

2. Did Judge Nettles commit legal error by allowing David Lyon to submit a "fine binder" in the 2/20/2024 Hearing that was not disclosed to the Plaintiff to ensure admissibility, proper discovery, chain or custody, accuracy, fairness, credibility, efficiency, and due process pursuant to *Federal Rules of Evidence (FRE) 103*.

3. Did the Circuit Court err by using false information of material facts provided by Defense Counsel David N. Lyon, Esq. of Duff, Freeman, and Lyon Law Firm in its' 2/12/2024 Memorandum in Support of Summary Judgment, by intentionally placing a misrepresentation of (M.Y.N.S.) testimony of his 11/16/2022 deposition that damaged the case? (*Rule 60(b)(3*)

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

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

6. Did the Circuit Court err that Plaintiffs failed, as a matter of law, to establish a cause of action for emotional distress by the district's "extremely reckless" conduct?

7. Did the Circuit Court err by misinterpreting Rule 60(b)1-5 for Mistake, Judicial Error of Law, Fraud, Misrepresentation, Misconduct, Corrections Clerical Mistakes, Oversights and Omissions, Newly Discovered Evidence?

8. Did the Circuit Court err by denying Plaintiffs the right to a trial by jury pursuant to the Seventh Amendment of the Unites States Constitution and preclude evidence that can determine the truth as a matter of law?

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INTRODUCTION

Appellants' ***Initial Brief*** argument on 7/18/2025 stated, "*Did the Circuit Court err by using false information of material facts provided by defense counsel David N. Lyon, Esq. (Duff-Freeman-Lyon Law Firm) in its Memorandum in Support of its Motion for Summary Judgment, by intentionally placing a distorted misinterpretation of (M.Y.N.S.) testimony of his 11/16/2022 Deposition that damaged the case?* Rule 60(b)(3); **Fraud, Misrepresentation**, and **Misconduct** by the Opposing Party (Evidence: ODC Complaint). Appellants' ***Initial Reply Brief*** argument on 8/27/2025 amended 12/17/2025 stated, "*Whether Judge Michael G. Nettles, 12th Circuit Court legally and ethically changed his Order dated 2/27/2024 DENYING Summary Judgment without using the proper Appeal process?"* Rule 60(b)(1); **Judicial Error of Law**. (Evidence: OCC Judicial Complaint) Both briefs highlighted the "*misapplication of the law"* of the 12th Circuit Court's Order dated 3/5/2024 and the "*misapprehended facts of caselaw*" presented by Meredith Seibert, Esq, *Consulting Energies Inc. v. Geometric Software* (2007) for Summary Judgment. Which has no legal, ethical, or jurisdiction standing pursuant to the Federal Rules of Civil Procedure under Rule 59(e) and Rule 60(b)(1-5). Any and all subsequent pleadings, motions, and orders should be null and void as a matter of law. This case should have been brought to trial.

An argument for using Federal Rule of Civil Procedure 60(b) is that it offers a procedural avenue for a party to obtain relief from a final judgment, order, or proceeding by demonstrating mistake, inadvertence, surprise, excusable neglect, newly discovered evidence, fraud, a void judgment, or other extraordinary circumstances not covered by the other enumerated grounds. This rule allows a party to appeal to the district court judge for a correction of an error or a reconsideration of a case in the interest of justice, preventing the finality of judgments from overriding these unique situations that warrant a fresh look at the case. In essence,

the core argument for Rule 60(b) is to balance the principle of finality of judgments with the need for flexibility and fairness in the judicial system when extraordinary circumstances arise.

Rule 60(b) of the Federal Rules of Civil Procedure authorizes a court to relieve a party from a final judgment, order, or proceeding for various reasons, including "mistake, inadvertence, surprise, or excusable neglect." Fed. R. Civ. P. 60(b)(1). The U.S. Circuit Courts of Appeal have had a "longstanding disagreement whether 'mistake' in Rule 60(b)(1) includes a judge's errors of law." *Kemp v. United States,* 142 S. Ct. 1856, 1861 & n.1, 213 L. Ed. 2d 90 (2022). Resolving that question in Kemp, the U.S. Supreme Court held, based on the text, structure, and history of Rule 60(b), that "a judge's errors of law are indeed 'mistake[s]' under Rule 60(b)(1)." Id. at 1860. In so holding, the Supreme Court indicated that the term "mistake" in Rule 60(b)(1) should be given its broadest possible interpretation to include any mistake, including "all mistakes of law made by a judge." Id. at 1862.

The Supreme Court specifically rejected the Government's narrower reading of Rule 60(b)(1) in Kemp that the term "mistake" includes "only so-called 'obvious' legal errors." Id. The Supreme Court's decision sensibly spared the federal district courts from having "to decide not only whether there was a 'mistake' but also whether that mistake was sufficiently 'obvious,'" since the plain language of Rule 60(b)(1) "does not support—let alone require—that judges engage in this sort of complex line-drawing." Id. at 1863. Thus, the rule going forward could not be any simpler: relief from a final judgment or order may be granted under Rule 60(b)(1) based on a judge's "mistakes," including legal errors. Having settled that a judge's legal error constitutes a "mistake," the Supreme Court also held that a Rule 60(b)(1) motion seeking relief based on a judge's mistake must be made "within a reasonable time," which "may not exceed one year." Id. at 1861 (quoting Fed. R. Civ. P. 60(c)(1) ("A motion under Rule 60(b) must be made within a

reasonable time—and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order[.]")). The Supreme Court declined to explicitly "define the 'reasonable time' standard" in Kemp but did note that the Circuit Courts "have used it to forestall abusive litigation by denying Rule 60(b)(1) motions alleging errors that should have been raised sooner (e.g., in a timely appeal)." Id. at 1864 (citing Mendez v. Republic Bank, 725 F.3d 651, 660 (7th Cir. 2013)). In Mendez, the Seventh Circuit opined that "a Rule 60(b) motion filed after the time to appeal has run that seeks to remedy errors that are correctable on appeal will typically not be filed within a reasonable time." 725 F.3d at 660. In other words, the Supreme Court signaled in Kemp, an 8-1 decision, its likely agreement with the application of the "reasonable time" requirement in Rule 60(c)(1) "to prevent Rule 60(b) from being used to evade the deadline to file a timely appeal." Id. That deadline is just "30 days after entry of the judgment or order appealed from." Fed. R. App. P. 4(a)(1)(A).

Key Arguments for Using Rule 60(b)

- ***Judicial Error***: A party can argue that the court made a mistake of law that should be corrected, as the rule's language and the 1946 Advisory Committee Note support relief from judicial error.
- ***Extraordinary Circumstances*** (Rule 60(b)(6)): The "any other reason justifying relief" catchall provision allows for relief when a party faces a
- circumstance so unusual that it prevents them from getting relief under the more specific grounds.
- ***Efficiency:*** Filing a Rule 60(b) motion can be an efficient way to seek a resolution from the district court, avoiding the need to file a separate, independent action in some cases.

- ***Fairness and Merits:*** The rule helps ensure that important legal questions are resolved on their merits rather than being dismissed due to technicalities, which aligns with the preference for resolving disputes fairly.
- ***Correcting Attorney Misconduct:*** A party might argue for relief under Rule 60(b)(6) if their attorney's misconduct caused an adverse judgment, preventing the party from being unfairly penalized.

Reasons for Seeking Relief Under Rule 60(b)

- ***Mistake, Inadvertence, Surprise, or Excusable Neglect:*** These grounds are often for errors by a party or their attorney, such as an attorney failing to file a required document in time.
- ***Newly Discovered Evidence:*** When critical evidence is uncovered after a judgment that could not have been found with due diligence before the original ruling.
- ***Fraud, Misrepresentation, or Misconduct of an Adverse Party:*** When the opposing side engaged in dishonesty or other bad-faith conduct that led to the judgment.
- ***Void Judgment:*** If the judgment was entered without proper legal authority.

Voiding the Judgment for Inequity: When a prior judgment, upon which the current judgment is based, is reversed or vacated, or if it is no longer fair for the judgment to continue. If a lawyer fails to date and sign a motion, the court will likely strike the document unless the omission is promptly corrected by the attorney. While a missing signature doesn't typically result in the entire case being dismissed, it is a violation of court rules, such as Federal Rule of Civil Procedure 11, and could lead to sanctions if the failure is deliberate or not corrected quickly. The affected party or the court can point out the omission, and the lawyer must then sign and date the document.

An argument for a Rule 60(b) motion asks the court to relieve a party from a final judgment, order, or proceeding, typically because of a reason listed in the rule, such as a mistake, fraud, or a void judgment. For example, you could argue a judgment is void if the court lacked the personal jurisdiction over you when it entered the judgment. Alternatively, you might argue for relief due to fraud, such as if the opposing party presented false evidence during discovery that the court relied on in its decision.

Types of Arguments and Examples

Here are common grounds for a Rule 60(b) motion, each requiring a specific argument and supporting evidence:

Mistake, Inadvertence, Surprise, or Excusable Neglect (Rule 60(b)(1))

Argument Example: The court's final order mistakenly awarded a larger sum of damages than what was proven at trial.

Argument for Relief: The party would argue that this is a mistake of fact or law that, if not corrected, would result in an unjust outcome. This requires demonstrating the error itself and that it was made through mistake, inadvertence, surprise, or excusable neglect.

Newly Discovered Evidence (Rule 60(b)(2))

Argument Example: After the trial, you discovered documents proving the opposing party's expert witness had a hidden conflict of interest that affected their testimony.

Argument for Relief: You would argue that this evidence was not previously available through due diligence and, if considered, would likely alter the outcome of the original judgment.

Fraud, Misrepresentation, or Misconduct (Rule 60(b)(3))

Argument Example: The opposing party's president lied under oath during discovery, denying knowledge of prior art that was essential to the case.

Argument for Relief: You would argue that the judgment was obtained through fraud or misconduct by the adverse party, preventing a fair trial.

The Judgment is Void (Rule 60(b)(4))

Argument Example: A default judgment was entered against your company even though it was never properly served with the lawsuit.

Argument for Relief: You would argue that the court lacked personal or subject-matter jurisdiction, rendering the judgment void and thus requiring it to be vacated.

The Judgment has Been Satisfied, Released, or Discharged (Rule 60(b)(5))

The judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application.

ARGUMENT

1.Appellants outlined the correct approach to interpreting Rule 60(b)(1-5)

Federal Rule of Civil Procedure (FRCP) 60(b) emphasizes its role in promoting justice and the efficiency of the courts by allowing relief from final judgments or orders for reasons like mistake, excusable neglect, fraud, or a void judgment. Proponents argue it corrects errors that would otherwise leave a party with no recourse, preventing manifest injustice and upholding the principle that the court's primary goal is to resolve disputes on their merits, even if it requires reopening a case under specific circumstances.

In the Hearing held on August 21, 2024, Plaintiff's Attorney Darryl C, Caldwell (Caldwell Law Firm, LLC) argued, "*May it please the Court, Your Honor. I'm Darryl Caldwell. I'm here representing the Plaintiff's Ms. Hannah Secka and her son (M.Y.N.S.){indiscernible} in a motion for reconsideration for an order of summary judgment that was granted in March of this year, Your Honor. Briefly on the facts the case was filed in 2021 for the Plaintiffs against the school district,*

Forrect (Florence) County School District One and Forrect (Florence) County Sheriff Department. The Plaintiff have settled against the Forrest (Florence) County Sheriff's Department, and the remaining suit was against Forrect (Florence) County School District 1.

Mr. Jansen (Yasen) was a student at – in the district at Sneed Middle School and West Florence High School when the alleged – when the incidents occurred. The motion for summary judgment, again, was granted in March. Ande we comeback with a motion for reconsideration on asking the Court to look at two or three specific instances in our Motion. Either motion granting summary judgment to the school district.

The Court alleged that there was no material issue of fact as it relates to loss. It is our contention that there was indeed a loss. And pursuant to South Carolina Tort Claim Act, a loss is defined as compensatory bodily injury, disease, death, or damage. We ask the Court to look at the evidence that was submitted in support of our motion in which there were clearly bodily injuries that occurred with two on my client.

He had scratches on his back, he had scratches on his face. As a result of an incident that occurred in the football locker room where there was -- where it's undisputed that there was no faculty or staff present in the locker room. So, we asked that -- the loss here are more than just mere emotional harm. There's clear body images of body injuries. If the Court would take a look at the pictures that were submitted, as a result in Exhibit 1. As well as the police report (FCSO Incident Report# 2019-02-0194 Assault & Battery 3rd) that was filed which is also included in Exhibit 1 of the Motion in Opposition to the Defendant's School District's Motion for Summary Judgment." (R. at p. 111-115 Exhibits 1)

(M.Y.N.S.) was struck with an open-hand and slapped and punched about the body in the face with such a force of leaving a solid handprint, swelling, bruises, and welts on his face, with a busted lip. **(**R. Exhibit B 10/17/2018 p. 269-270 Image of Injuries and FCSO Incident Report# 2019-02-0194 p. 271-274 Assault & Battery 3rd Degree)

"In addition, Your Honor, we asked the Court to give consideration or to the affidavit that was prepared and filed contemporaneously with our motion for consideration in which the in which the Plaintiff expert Dr. Sterling Harris articulated an opinion as it related to the injuries but as well as articulated an opinion as it related to the district's violating their policy. In the order for dismissal we wish to state that[indiscernible] one of the grounds was that there was not a violation of a specific policy or policies."

What we submitted from affidavit that was prepared by Dr. Harris basically articulated the policies, the specific policies that were violated as a result of the district's fear of what they failed

to adhere to. Specifically, the policies are enumerated in our motion (FSD1 Board Policy: JICFAA-R Harassment, Intimidation, or Bullying and Policy: GBEB Staff Conduct *(R. at p. 223-236. Plaintiff Motion for Reconsideration, Dr. Sterling Affidavit Exhibit A: Board Policies) and they are attached to our motion as well as the affidavit from Dr. Harris, And Your Honor, the last grounds we ask that the motion for reconsideration be granted is that there was a determination by the trial court that there were was --although there may have been questionable behavior, behavior recognized as reckless behavior. And your Honor, it is our position that behavior is reckless, which is required pursuant to the South Carolina Torts Claim Act. And it is our position that the determination of whether there was questionable behavior and whether that's categorized as extremely reckless would be along with the other two questions. Would be questions for the jury to answer as opposed to the Court looking at the factors and then making the determination that indeed it was reckless.*

And I think the case law that we've provided supports such: Jones ex rel. v. Enterprise Leasing Company-Southeast, 383, S.C. 259, 678 S.E. 3d 819 (Ct. App. 2009); Medical Univ. of South Carolina v. Arnaud, 360 S.C. 615, 602 S.E. 2d 747 (2004); Rifle v. Bibatchi Constr. Mach. Co., Ltd., 363 S.C. 209, 609 S.E. 2d 565 (Ct. App. 2005; Mulherin-Howell v. Cobb, 362 S.C. 588, 608 S.E. 2d 587 (Ct. App. 2005) Helena Chem. Co. v. Allianz Underwriters Ins. Co., 357 S.C. 631, 594 S.E. 2d 455 (2004)and Hawkins v. City of Greenville, 358 S.C. 280, 594 S.E. 2d 557 (Ct. App. 2004). Your Honor, is our position that, that would be a question for the jury.

So, in conclusion on our part. One, Your Honor, we do think that there's a material question of genuine fact as it relates to a loss and that question should be presented to the jury. Likewise, we believe that the weight should be assigned to the expert's testimony and expert's affidavit articulating a clear violation of district policies. And we do believe that the district's behavior can

rise to the level of extremely recklessness. And that would be a decision that would be made by the jury if the Plaintiffs are allowed to proceed with a decision that would be made at the close of the Plaintiff case as opposed to being made at the summary judgment motion.

May it please the Court, if I could just respond specifically to the issue of (Meredith Seibert) and then we'll generate several others. But with regard to our motion for reconsideration, Your Honor 60(b). And if we look at Rule 60(b)(5) deals specifically with equity and it is equitable for the Court and certainly that discretion relies with you and you can review under Rule 60(b)(5), we are allowed to submit an affidavit in furtherance of trying to prove the 60(b) claim. So, when we filed the motion for reconsideration (R. at Exhibit-A p. 223-236) Expert Affidavit)*, we did file on the 60(b) and I'm representing to the Courts under 60(b)(5)."* (end of argument)*."*

(R. at Hearing Transcript p. 309-326).

Now, why did Judge Nettles reverse his 2/27/2024 Order and issue another on 3/5/2024? Why is the 2/27/2024 Order absent from the file docket and record? Why was it taken off the Public Index? Who took it off the Public Index? Why did Judge Nettles DENY Motion for Reconsideration? Is this conduct under the stringent of "*abuse of discretion*" or "*reversable error?*" A standard that is totally unreasonable? The Fourth Circuit of appeals has laid out three grounds that might justify amending an earlier judgment (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice. *Pacific Ins. Co. Am. Nat. Fire Ins. Co., 148 F3rd 396, 403* (4th Cir 1998). "To qualify for reconsideration under the third exception, an order cannot be "maybe or probably" wrong; it must be 'dead wrong,' so as to strike the Court' with the force of a five-week-old unrefrigerated dead fish." *United States v. Mooney*, 2023, quoting *TFWS, Inc. v. Franchot*, 572 F3d. 186, 194 (4th Cir. 2009).

The rule governing summary judgment provides that "*supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matter stated therein*." Rule 56(e), SCRCP. (*Nonetheless, "an expert witness may state an opinion based on facts not within his firsthand knowledge.... He may base his opinion on information, whether or not admissible, made available to him before hearing if the information is of the type reasonably relied upon in the field to make opinions." Hundley v. Rite Aid of South Carolina, Inc*., 339 S.C. 285, 529 S.E.2d 45, 50 (Ct. App. 2000) (citations omitted); see also Rule 703, SCRE). Personal injury claims arise when harm results from another's negligence. Gross negligence, or intentional actions. To succeed, a plaintiff must establish the defendant's duty of care, a breach of that duty, causation, and damages.

In this matter Attorney David Lyon filed a Memorandum in its Support of Summary Judgment on 2/12/2024 (R. at p. 76-96), Attorney Darryl Caldwell filed a Memorandum of Law in Opposition of Summary Judgment on 2/20/2024 (R. at p. 97-109 Exhibits 1-5), and Judge Michael G. Nettles issued an Order **DENYING** Defendant Motion for Summary Judgment on 2/27/2024 (R. at p. 6-19), then unilaterally **REVERSED** his Order on 3/5/2025 (R. at p. 20-30). Respondents have no legitimate defense of this gross judicial error of law. As a matter of law, any subsequent pleadings or order should be null and void for Respondents failing to follow proper procedure of appeal, rather than relitigate a final order. Once Judge Nettles entered his Final Order, he lacked personal and subject-matter jurisdiction over this case. It is unconstitutional to *ex post facto* his final order and deny the Plaintiffs' their right to a trial by jury. This newly discovered evidence by **Judge Nettles 2/27/2024 Order states**:

The District claims the Court should grant summary judgment pursuant to the South Carolina Tort Claims Act. In such cases the burden of establishing a limitation upon liability or

an exception to the waiver of immunity upon the governmental entity asserting it as an affirmative duty. It is well established that summary judgment is appropriate only when it is perfectly clear that no genuine issue of material fact exists and further inquiry into the facts is not desirable to clarify the application of the law. Even when there is no dispute as to the evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should not be granted. Rice v. School Dist. Of Fairfield, 317 S.C. 77, 91, 452 S.E.3d 352, 354 (Ct App. 1994). Summary Judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of law. Gadson v. Hembree, 364 S.C. 316, 613 S.E.2d 533 (2005). Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. Nelson v. Charleston County Parks & Recreation Comm, 362 S.C. 1, 605 S.E.2d. 744 (Ct. App. 2004). Because summary judgment is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues. Helena Chem. Co. v. Allianz Underwriters Ins. Co., 367 S.C. 631, 594 S.E.2d 455 (2004); Hawkins v. City of Greenville, 358 S.C. 280, 594 S.E.2d. 557 (ct. App. 2004). ***Plaintiff has alleged facts sufficient to establish genuine issues of material facts sufficient to survive Defendant's Motion for Summary Judgment****. In the instant case, Plaintiff's claims were filed timely.* ***Plaintiff have shown that a genuine issue of material facts exists as to whether Jeff Lee, varsity football coach, and Matthew Dowdell, WFHS Principal conduct was "extremely reckless."*** *In addition, the Plaintiff's designated expert Dr. Sterling Harris, Ph. D. provided testimony for the Plaintiffs. Specifically, he testified that there is no manner, no instance, or any time where a teacher should write on a student for any reason. Further, Dr. Harris testified that within any type of locker room for any activities there should be adult supervision. Since there was no adult in the locker room when the incident*

occurred the principal (Matthew Dowdell) should have questioned the athletic director (Greg Johnson) or coach (Jeff Lee). In addition, the District failed to provide follow-up information about what occurred in the locker room, whether taking statements from different students on the team, or different players, to get an understanding or just what happened when there's an allegation like this is made. Therefore, ***Plaintiffs have shown that that a genuine issue of material fact exists as to whether the District through its employee conduct was "grossly negligent" which is a question for the jury." Plaintiffs' claims are not towards individual employees named in the complaint, but rather for the District****. The expert, Dr. Sterling testifies that Kathy Luhrs' conduct fell outside the scope of what a reasonable educator would have done, and it was reasonable for the parent to pursue legal action as a result of such conduct. Dr. Harris's testimony establishes that the* ***Plaintiffs have met their burden of proof to defeat a Defendant's Motion for Summary Judgment*** *in this regard. Dr. Harris was shown a picture of the student's arm and stated the there is no manner, no instance, or at any time where a teacher should write on a student for any reason. Based on this, whether the conduct of the teacher was gross negligent is an issue of material fact that should be decided by a jury. Dr. Harris testified that (M.Y.N.S.) has provided testimony to show that* ***care was not taken****, and as a result of this failure by the District employees collectively, (M.Y.N.S.) has suffered actual and emotional damages. Dr. Harris testified regarding the District's employee's failure to protect (M.Y.N.S.) during the deposition. Dr. Harris asserted that the District failed to protect (M.Y.N.S.) during extracurricular activities while he was in the football locker room. Specifically, Dr. Harris testified that taking into account what occurred, (M.Y.N.S.) behavioral disabilities that required a shadow (one-to-one aide), it is his opinion as a principal that there has already been some predetermined fears or predetermined ideas that the student could react emotionally as having bad reactions with other students and teachers. Dr. Harris'*

*opinion as a principal that he wouldn't want an employee to be put in a position where setting off those triggers without full knowledge of the student's disability. Judge Nettles states****: Plaintiff's claim is not BARRED by the SC Tort Claims Act Statute of Limitations*** *because Plaintiff (M.Y.N.S.) did not reach the age of majority until January 7, 2022. Further, the incident with SRO Green****, it was Matthew Dowdell, WFHS Principal, who delivered (M.Y.N.S.) to SRO Green for interrogation****. Mr. Dowdell did not lead the questioning or interceded on (M.Y.N.S.) behalf until the SRO became belligerent. Dr. Harris's testimony states that (M.Y.N.S.) should have been questioned by an administrator and with his parents or guardian present and not SRO Green. Therefore,* ***Plaintiffs have shown that a genuine issue of material fact exists as to whether the District, through its employees conduct was "gross negligence."*** *Whether the employees were grossly negligence is a question for the jury. The Defendant (FSD1) is correct in its application of the statute of limitations for claims brought pursuant to the SC Tort Claims Act, but their memorandum failed to acknowledge the exception to §15-78-110 for infant plaintiffs. "If a person entitled to bring an action under Chapter 79 of this title, is at the time of the cause of action accured within the age of eighteen years, the time of disability is not a part of the time limited for the commencement of the action, except that the period within which the action must be brought cannot be extended: (a) more than five years by any such disability, except infancy; not (b) in any case longer than one year after the disability ceases." S.C. Code Ann §15-3-40. The District has erroneously asserted that Plaintiff's claims for specific conduct that occurred before the complaint was filed on September 26, 2021*(September 29, 2021*), are time-barred by §15-78-110****. (M.Y.S.N.) did not reach age of majority until January 7, 2022, and the specific acts giving to this action occurred before that date. Therefore,* ***(M.Y.N.S.) had until January 7, 2023, to bring this claim*** *despite failing to file a verified claim.* ***Plaintiffs (M.Y.N.S.) claims were filed in a timely manner.***

Plaintiff Secka (Hannah) claims were timely filed because the statute of limitation starts to run when Plaintiff knows or should have known how the injuries occurred. Plaintiff Secka requested an investigation and a meeting regarding the incident in the locker room, but to no avail. She was not aware of what occurred in the locker room until October 2019, which makes the complaint timely filed. *Plaintiff Secka has presented* ***evidence that she incurred medical expenses*** (R. at Exhibit 1E p. 129-130 Bask Psychology Trauma Evaluations and Expenses) *related to the incidents alleged in the Complaint. Therefore,* ***Plaintiff Secka claims to survive Defendant's Motion for Summary Judgment on statute of limitation violation and is a question for the jury. Plaintiffs have pled facts sufficient to establish damages for emotional distress because a reasonable jury could find the conduct of the District employees to be "extremely reckless." Plaintiffs have alleged facts sufficient to prove gross negligence, and District's failure to act, not to students' intentional conduct, therefore immunity would not be proper***. **Judge Nettles ORDER states:** *This argument fails because Plaintiffs are not asserting that they are entitled to relief based on acts of the student but rather the District's employees failure to act when given notice of potential danger, and their reckless choice to not supervise (M.Y.N.S.) properly.* ***The District IS NOT immune from the claim of negligent supervision****. Therefore****, Plaintiffs have shown that a genuine issue of material facts exists as to whether the District through its employees, conduct was "grossly negligent" or "extremely reckless" which is a question for the jury." Defendant's Motion for Summary Judgment is DENIED****! Hon. Judge Michael G. Nettles.* (R. at. p. 6-19)

Article VI of the United States Constitution forms the Supremacy Clause "*supreme law of the land*." It specifically says that judges in every state must obey the Constitution, even if it contradicts with state law. The Sixth Amendment guarantees the right to a speedy public trial with

an impartial jury. Article III, Section 2 of the Constitution establishes the right to a jury trial for all federal crimes that protects people's basic civil rights. The Supreme Court has extended this protection to defendants in state courts through the Fourteenth Amendment. The Seventh Amendment preserves the right to a jury trial in federal civil cases. Through the U.S. Constitution through the Fourteenth Amendment, cannot deny citizens fundamental rights, as it states to depriving any person of life, liberty, or property without due process of the law and deny any person equal protections of the laws.

Now, in the State of South Carolina, appealing issues that were not preserved (objected to at trial) are challenging and typically only reviewed under the "*plain error*" or "*manifest injustice*" doctrines, which are applied sparingly to address serious errors that fundamentally impact fairness or due process. The appellate court should review the issues described in this brief in the interest of justice and to avoid a *manifest injustice* or *miscarriage of justice*. The Appellate Division, has broad "*jurisdiction to address unpreserved issues in the interest of justice*." *Merrill by Merrill v. Albany Med. Cntr. Hosp*., 71 N.Y.2d 990, 991 (1988). Hannah Secka placed a formal verbal **OBJECTION** on record in open court on 8/21/2024 at 12th Circuit Court Summary Judgment Hearing with Judge Michael G. Nettles. (R. 17. Hearing Transcript 8/21/2024 p. 4-18 line 1-25)

This case is a ***gross miscarriage of justice*** where a disabled child was tortured while in the Districts' care, they concealed the crimes and the Plaintiffs' attorney Darryl C. Caldwell failed his *fiduciary duty* to protect and defend his clients with due diligence. Judge Nettles' judicial ***error of law*** is plain and obvious. There was no trial by jury for this case, which Plaintiffs demand under their statutory constitutional right to due process. Case law has indicated and proven that summary judgement is unconstitutional under the 7th amendment of the United States Constitution.

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

FACTS

Attorney David N. Lyon intentionally violated Rule 3.3 (*candor with the tribunal*) when in bad-faith he was dishonest and provided deliberate false statements to the Courts and a misrepresentation of (M.Y.N.S.) testimony from his 11/16/2022 deposition that damaged the case from his 2/12/2024 Memorandum in Support of its for Summary Judgment for Case No. 2021-CP-21-02121 to Circuit Court Judge Michael G. Nettles; violating Rule 60(b)(3) Fraud, Misrepresentation, or Misconduct of an Adverse Party. Then failed to follow proper procedures of Federal Rules of Civil Procedure (FRCP) to file a timely appeal after summary judgment was **DENIED** by Judge Nettles on 2/27/2024. (R. at p. 6-19)

Article VI of the United States Constitution forms the Supremacy Clause "*the supreme law of the land*." It specifically says that *judges in every state must obey the Constitution*, even if it contradicts state law. The Sixth Amendment guarantees the right to a speedy public trial with an impartial jury. Article III, Section 2 of the Constitution establishes the judicial power and jurisdiction as a right to a jury trial for all federal crimes that protect people's basic civil rights. The Supreme Court has extended this protection to defendants in state courts through the Fourteenth Amendment. The Seventh Amendment preserves the right to a jury trial in federal civil

cases. Through the U. S. Constitution through the Fourteenth Amendment, the courts cannot deny citizens fundamental rights, as it states to depriving any person of life, liberty, or property without due process of the law and deny any person equal protections of the law.

This is a case of an African American special education student who was brutally hazed, assaulted, harassed, intimidated, bullied, and attacked by law enforcement while in the districts' care and they suppressed evidenced and concealed the school crimes committed against the student. The victim (M.Y.N.S.) gave a sworn deposition on 11/16/2022. On page 12 Attorney Lyon's cut and paste a false narrative of (M.Y.N.S.) testimony of allegations against his teacher Kathy Luhrs intentionally writing on his arm (body) with a permanent marker misspelling the word "Loyalty" to "*Loyality*." Lyons' stated (M.Y.N.S.) testified" "*I can't remember what happened*." That's false. (R. Exhibit 1C p. 116 Image and R. at Exhibit 1D p. 117-119 FCSO Incident# 2019-06-0227 Neglect/Abuse and Religious Discrimination)

Attorney David Lyon provided misrepresentation of evidence to the Courts by saying Kathy Luhrs conduct was "intentional behavior" "*but the District was not or should have been made aware of how Ms. Luhrs had acted similarly before*." (R. at p. 76-96). On the contrary, evidence was given to the District several times by the parents. Brian Denny, Director of Special Education on 5/30/2018, Richard O'Malley, Superintendent on 12/3/2018, the Board of Trustees, and SC Department of Education. The District employees committed perjury in their depositions. When the mother (Hannah Secka) pulled out her cell phone in the 5/30/2018 State Facilitated Transition IEP Meeting for (M.Y.N.S.) and displayed the image to the IEP Team and the Facilitator Bruce Smith stated, "*Now, that the mother has thrown a grenade give her everything she asked for in (M.Y.N.S.) IEP, BIP, and IHP!*" Not to mention, Kathy Luhrs was present at the Facilitated *Transition* IEP Meeting sitting right next to the mother and admitted to the act! Hannah Secka was once again traumatized on the brink of insanity of the district's gross negligence of hiring, retention, and supervision of Kathy Luhrs, in her capacity as a Math Teacher where she was allowed to write on her son in such a degrading manner as if he was chattel or branded like a slave. Then to violate a defenseless disabled Muslim students' religious belief when he told her that "*tattoos are against my religion, and I don't plan on getting any*" and that go against any ink, carving, or writing on the body. Nevertheless, giving false testimony in court or falsely swearing before someone who is authorized to administer oaths. The penalty is up to five (5) years in prison and a fine at the court's discretion. In South Carolina, perjury is a crime that involves giving false or misleading testimony under oath or providing false information in a required document. Brian Denny intentionally committed perjury pursuant to SC Code of Laws §16-9-10 when he lied under oath to conceal the abuse, neglect, religious and racial discrimination Kathy Luhrs committed against (M.Y.N.S.) on 5/29/2018. The physical evidence of Kathy Luhrs conduct was given to him

along with every school staff member in attendance of the FIEP Meeting that signed the legal contract with the mother on 5/30/2018 at Sneed Middle School and they all failed (M.Y.N.S.) as a mandatory reporter. But it was Brian Denny, Director of Special Education, who reassured parents adverse action would be taken and it was not! There is no statute of limitations on crimes committed in the State of South Carolina.

Testimony: (Brian Denny, Director of SPED DPH# 2 Transcript Page 148 line 8-24)
Q. Was there ever a facilitated IEP meeting at Sneed Middle School?
A. Yes.

Q. Okay. Were you given evidence of teacher abuse of my son's religious civil rights being violated?
A. No. (Perjury)

Q. Okay. Have you ever seen this picture?
A. Yes.

Q. Okay. Where?
A. I've seen it over email. That's where I remember it was, over email. (Perjury)

Q. Okay. Did there ever come another time where there had to be a facilitated IEP meeting for my son?
A. There -- yes, there was other requests for a facilitated meeting, yes. (end of testimony)

(R. Exhibit R Letter to BOT 9/29/2021)
(R. Exhibit S. Grievance JII Grievance against Richard O'Malley to BOT 8/14/2021 and Grievance to BOT for Brian Denny 10/14/2021)
(R. Exhibit T Grievance against Brian Denny and Richard O'Malley 10/22/2021)

Testimony: (M.Y.N.S.) 11/16/2022 Deposition (Kathy Luhrs) Page 77-85
(Direct-Examination by David Lyon) (R. at p. 237-247)

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

A Right.

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

A This was -- I believe, the last week of school. And before this situation even happened, me and Ms. Luhrs' relationship was already like, on the rocks. Because -- we – we also had like, different types of altercations and situations that were way bigger than this incident. But this specific one she -- yeah. This was the last week of school. I believe, we were watching a movie. Yeah. Was watching a movie and we all was just talking like, we was all chilling in Ms. Luhrs' class. And then I can't remember what happened. I just remember we all ended up like, piling up by her desk and she had a Sharpie. And I told her -- I told her like, in a -- in a kind of nonchalant type of way that I -- I told her -- basically, we was talking about -- everybody in the classroom was talking about tattoos. And she began to say something about she wanted a tattoo or something like that. And she asked me if I ever thought about getting one because me and the other students were all talking about it. And I told her that I was Muslim and that I didn't really like, plan on getting any type of tattoos. And she began to just start doodling on pieces of paper. And I'm trying to remember exactly how she ended up writing on my arm. But I just remember I did not really appreciate it, but -- I'm trying --I'm trying to reach far back right now. Trying to go down memory lane.

Q Take your time.

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

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

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

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

Q Humiliation. Yes.

A Yeah. Yeah. It just sounded like a mix of that. Because me and her already had very rocky relationship. Like, before this with, like, different other incidents where she's – I believe, she -- yeah, I'm pretty sure she pressed charges against me. And I -- I believe she -- no, I don't believe. She did run off with my phone and tried to -- tried to -- I don't know what she tried to do with my

phone. But she – she promised me she was going to give me my phone at one point at the end of the class when she snatched it off of the desk. And instead of her giving me back my phone when the bell rang, she decided to take it out of the cabinet and go and walk off towards the -- the principal's office. And as I was behind her, I was asking her and I was like, hey, what are you doing with my phone. Because mind you, she promised me she was going to give me my phone at the end of the class period. But she also did snatch it from -- like, without my consent. So that's why I said me and her relationship already was like, rocky. And when I -- when I did try to get my phone back from her, like, when I tried to reach, she made a scene and made it seem like I basically tried to hit her. And she -- she tried to call the S.R.O. and make a big 'ole scene and make it seem like I tried to harm her. When in reality, I was just trying to get my belongings back. You know what I'm saying?

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

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

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

A I don't recall any cursing --

Q All right.

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

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

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

A Well, whenever we're not doing

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

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

A No.

Q -- not your recollection?

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

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

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

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

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

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

Q Okay.

A That's just how I felt.

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

A It was just me and one other student.

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

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

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

A No.No.

Q Was there a movie on about loyalty or--

A No.

Q -- y'all talking about loyalty?

A No.

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

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

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

A Oh, very, very -- what's the word I'm looking for? I already say humiliated, but I also felt kind of like, different from the others. Especially in her classroom environment. Because it just -- it

just didn't sit right with me, the fact that she -- she put something on my arm and it wasn't even spelled right. So it just -- it just didn't really sit right with me because it just -- it just looked goofy. And then when I tried to wash it off, it wouldn't come off. So I had to wait like, a day or two, so it was just -- it was just kind of like there for like, a couple days.

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

A No, it was the last week of school.

Q Last week of school. Okay.

A Yes.

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

A From Sneed?

Q No. I'm sorry.

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

Q Yes.

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

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

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

Richard O'Malley, FSD1 Superintendent, signed his contract on May 4, 2018, purchased his house in June 2018, and relocated to Florence, SC in July 2018 and assumed his role in August 2018. Hannah Secka contacted him directly on 11/26/2018, after Brian Denny caused the parent to suffer a stroke in a 11/19/2018 IEP Meeting. He met with the parent Hannah Secka on 12/3/2018, to hear her grievances and took possession of the three (3) photos containing the teacher abusing (M.Y.N.S.) by forcibly writing on him with a permanent sharpie marker in a gang style tattoo without consent, the visible bodily injuries to his face, lips, and back, that occurred in football locker room. Whether a "hazing" "sexual assault" "assault & battery" or "assault by mob" by the quarterback and other upper classmen." Due to the districts' acts of "gross negligence" and "extreme recklessness" there is no investigation or supporting documentation other than what the

parents secured from the Sheriff Department. Richard O'Malley attended a scheduled another Facilitated IEP Meeting on 1/14/2019 at West Florence High School with Bruce Smith, SCDE Facilitator. Which had to be tabled due to Brian Denny's gross negligence when he failed to bring the Independent Educational Evaluation (IEE) data from 2017 regarding (M.Y.N.S.) autism diagnosis to give him the proper services for his physical and mental disabilities in accordance with federal disability laws. Whereas the parents could bring a Section 1983 lawsuit for a Child Find Mandate violation for failing to identify (M.Y.N.S.) autism when the District evaluated him in 2014.

From: Hannah Secka hannsc2@aol.com
Date: November 26, 2018 at 9:48 AM EST
To: Richard O'Malley romalley@fsd1.org
Cc:JGalloway@fsd1.org, alexixpipkins@aol.com, ejmciver@fsd1.org, pstewart@mcgowanlaw.com,

Subject: Secka (WFHS)

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

Hannah Secka
843 407 8867

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

Subject: Fake Secka Meeting

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

Hannah Secka

On Nov 26, 2018, at 4:34 PM, RICH O'MALLEY <romalley@fsd1.org> wrote:
Thank you for your email regarding a meeting. It is my understanding that this matter will be addressed a future IEP meeting and/or mediation.

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

Subject: Re: Fake Secka Meeting

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

On Nov 26, 2018, at 5:54 PM, Richard O'Malley romalley@fsd1.org wrote:

OK-I'll meet with you, but know ahead of time that I cannot interject into the IEP decision, as I am not a member of the IEP team. Are you available to meet next Monday or Tuesday?

On Nov 26, 2018, at 6:03 PM, Hannah Secka hannsc2@aol.com wrote:

Yes Sir, My advocate and I are available Monday at 9am. Is this fine with you?

Hannah Secka

On Nov 26, 2018, at 6:12 PM, RICH O'MALLEY romalley@fsd1.org wrote:

How's Monday, December 3rd at 9:00 am at the district's office? I can make 10:30 am or 9:00 am on Tuesday.

On Nov 26, 2018, at 6:26 PM, Hannah Secka hannsc2@aol.com wrote:

Monday is fine. Where please?

On Nov 26, 2018, at 6:34 PM, RICH O'MALLEY romalley@fsd1.org wrote:

Monday, December 3rd at 10:30 am Board Office – 319 Dargan Street.

On Nov 26, 2018, at 6:46 PM, Hannah Secka hannsc2@aol.com wrote:

Confirmed! Thank you, Good night.

On Nov 29, 2018, at 10:55 AM, Denny Brian bdenny@fsd1.org wrote:

Please see attached.

Brian Denny, Director of Special Services
<Invitation Notice of IEP Meeting for 12-7-2018>

On Nov 29, 2018, at 12:52 PM, Hannah Secka hannsc2@aol.com wrote:

Good Day,

Thank you for your correspondence. Let me reiterate the fact that you made the sole decision on November 19th to reject my proposal for a safe out of district for my son. There was no Team input. To add further insult to injury you walked out of the meeting in front of my child, failing to document the contents of the PWN. There were concerns of abuse and neglect which you deliberately evaded as a mandatory reporter.

For Yasen is most definitely not receiving a Free Appropriate Public Education (FAPE) at WFHS, where staff can engage in improper seizure and searches of a special education child, then threaten him with criminal prosecution for non-compliance and then to not document the incident or inform the parent/guardian. All trust and confidence in FSD1 is GONE when you allow other children to constantly harass and assault my child!

You sent a PWN after the fact, when you were made aware that a State Complaint had been filed to cover yourself. You're also refusing the Mediation Process with me (R. K District Denied Mediation). Therefore, I will be meeting with the Superintendent on December 3rd. Please hold off on the December 7th Special Review Meeting until further notice.

Hannah Secka

Cc:
FSD Board of Trustees
Emily Harding, DDSN Case Manager
James Williams, Life-Line Plus Advocate

On Dec 5, at 8:39 AM, Denny, Brian bdenny@fsd1.org wrote:

Ms. Secka,

It is my understanding that you met with Dr. O'Malley on December 3rd. Do you still wish for us to hold the meeting on the 7th as planned?

On Dec 5, 2018, at 12:39 PM, Hannah Secka hannsc2@aol.com wrote:

No

On Dec 5, 2018, at 12:42 PM, Hannah Secka hannsc2@aol.com wrote:

Mr. Denny,

When I receive a written response from Dr. O'Malley I will seek a FIEP Meeting with WFHS.

Hannah Secka

Richard O'Malley intentionally committed perjury pursuant to SC Code of Laws §16-9-10 in his deposition on 9/6/2023. Greg Hall was hired in April 2020. He definitively knew he met with Hannah Secka on 12/3/2018 at 9am at the district office, where Hannah Secka informed him of the gross negligence and extreme recklessness of Brian Denny failing to report Kathy Luhrs, Coach Jeff Lee and Mathew Dowdell for educator misconduct. O'Malley personally asked Plaintiff Hannah Secka if he could make copies of the injuries of (M.Y.N.S.) and he was allowed. O'Malley stated, "*A teacher did this to your son and no action was taken?*" Plaintiff Hannah Secka said, "***YES!***" The parent clearly informed the superintendent about the locker room hazing, assault, and sexual contact, and the efforts Brian Denny and Matthew Dowdell engaged in to conceal and suppress evidence by failing to document the crimes (M.Y.N.S.) was a victim of at Sneed and West Florence. After O'Malley met with the parents and she made it abundantly clear that the parent and the student did not want to attend WFHS due to the ongoing violence and trauma of physical attacks, improper search/seizure, illegal detainment, isolation, academic failure, teacher-peer disability-based harassment, intimidation, bullying and failure to protect (M.Y.N.S.) from harm and injury both physically and emotionally. The child was afraid to attend school due to the school employees' gross negligence and extreme reckless actions toward him. O'Malley promised Plaintiffs relief in firing Brian Denny and Kathy Luhrs, a thorough investigation into the concerns and possibly sending (M.Y.N.S.) to the out-of-district placement for his safety at the Riverside Military Academy, Camden, South Carolina. (R. Evidence for a Jury Trial)

Richard O'Malley attended a Facilitated IEP meeting on 1/14/2019, which was unsuccessful and had to be tabled by Bruce Smith due to Brian Denny's gross negligence of failing to provide the IEP Team with the Independent Educational Evaluation (IEE) data from Dr. Leah Pritchard-Boone, Licensed Clinical Psychologist that revealed FSD1 was negligent in identifying

(M.Y.N.S.) Autism and other disabilities in 2014 when they evaluated him. They stated (M.Y.N.S.) had no disabilities under IDEA. This is a federal violation of IDEA and Section 504 Child Find Mandate. The State Facilitator sent an email detailing the Agenda for another State FIEP IEP Meeting with Bruce Smith at West Florence High School for 2/15/2019, he documented that peer and teacher disability-based bullying was the primary concern to be addressed pursuant to the South Carolina School Crimes Act (Bullying) SC Code of Laws §63-7-20 (310, 360, 390, and 410). The Due Process Complaint was filed on 2/15/2019 (*at the same time Cooper Wallace, WFHS Quarterback was recruited by the Citadel*).

On 3/9/2019 Richard O'Malley saw Hannah Secka and Staff Sergeant Khadijah Secka at the McLeod Rehabilitation Facility (Gym) and walked over to her and told her that he had a deal for her, "*If you agree to withdraw your due process hearing I'll send your son to the Riverside Military Academy*." When the parents refused because she wanted accountability on Brian Denny misconduct, he became angry and retaliatory. The DPH#1 was held on 4/10/2019 with Doug Dent, Esq. as Local Hearing Officer. The Decision was rendered on 4/19/2019. While the Notice of Appeal was filed on 4/26/2019 with SCDE Richard O'Malley paid Doug Dent a $63,707.57 client appreciation fee (a bribe) on 5/13/2019 (R. Evidence for a Jury Trial). Hannah Secka went to the SCDE SBE Board Meeting in Columbia, SC on 6/11/2019 with a binder and PowerPoint

(R. Evidence for Jury Trial) to expose Molly Spearman, State Superintendent, Barbara Drayton, General Counsel, Rebecca Davis, Director of OSEP, and Holly Hadden for failure to act, respond, and protect (M.Y.N.S.) and his mother Hannah Secka when abuse, neglect, hazing, assaults, educator misconduct of Richard O'Malley, Brian Denny, Matthew Dowdell, and Coach Jeff Lee, and Kathy Luhrs. Instead, the SCDE retaliated by causing Hannah Secka to lose her teaching position in Lake City, SC, which resulted in a *Wrongful Termination* Lawsuit Settlement Case No: 4:20-cv-3342-JD-TER. David N. Lyon, Esq. (Duff-Freeman-Lyon) was the attorney for this lawsuit along with Darryl Caldwell for the Plaintiff (Hannah Secka), a clear conflict of interest. The SCDE also unilaterally dismissed all Hannah Secka' State Complaints and Educator Misconduct Complaints. The District and SCDE (State) engaged in a civil conspiracy to silence Hannah Secka by using Hearing Officers Brian P. Murphy and Doug Dent to supply slanderous Favorable Decisions to the district for monetary gain. They abused their authority as Local Hearing Officers and violated their oath of office as officers of the courts in their positions as practicing attorneys in the State of South Carolina. The District and State are equal culprits in the cover-up and denying (M.Y.N.S.) a free appropriate public education where he was abused, neglected, harassed, bullied, and constantly assaulted in a hostile learning environment that caused the student to develop PTSD. *Porter v. Manhattan Beach Unified School District* (9th Cir. 2003). (R. Exhibit U FSD1 v. Secka Frivolous Lawsuit 11/11/2021) (R. Exhibit V Hannah Secka pro se Counterclaim Harassment/Retaliation see Opinion of 4th Circuit Court 1/27/2025) (R. Evidence for Jury)

Testimony: (Richard O'Malley 9/6/2023 Deposition Transcript page 1-59)
Direct-Examination by Darryl C. Caldwell, Esq. Plaintiff's Attorney

Page 8
Q. Do you recall ever participating in an IEP meeting with Hannah, Moudou, and other members of your special services department?
A. I remember being in an IEP meeting, but I don't recall who else was there.

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

A. I do recall. I don't recall when, but I do recall being at one. (Perjury *see Denied subpoena*)

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

A. No

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

Q. On about May 29th, 2018.

A. No. (Perjury *see 6/5/2019 email to O'Malley and DelGracia Jones, SBE Chair*)

Page 23-24
Q. So I'll rephrase the question. Do you recall Hannah Secka filing a complaint with the Office of Civil Rights against you or -- and Florence County School District One?

A. I don't recall. Any of those complaints that come in go directly to our attorneys who handle it.

Q. Okay. Do you provide any input to complaints that are filed to you or the district?

A. I do not. My assistant superintendent has been handling those.

Q. And your assistant superintendent that handled that for you, what's their name?

A. His name is Greg Hall. And can -- Hall? Hall?

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

A. I do not recall. (Perjury)

Q. Did you -- do you recall signing any resolution agreement with the Office of Civil Rights and Hannah Secka?

A. I don't recall. (R. Exhibit I Signed OCR Resolution 11-21-1211 and 11-21-1364)

Q. Do you recall meeting -- strike that. Do you record meetings that you participate in with parents of students in the school -- in Florence County School District One? Do you recall ever meeting Hannah Secka in your office in a meeting regarding her son, Yatsen --Moudou-Yatsen Secka?

A. I do not recall. (Perjury *see 11/26/2018 email thread*)

Pursuant to Policy GBEB Staff Conduct and Policy JICFAA (HIB)

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

After the Office of Civil Rights (OCR) informed the district that they were under investigation Matthew Dowdell engaged in a vicious retaliatory attack to disqualify (M.Y.S.N.) from playing football as a starting linebacker out of malice for his mother filing a complaint against him. He went as far as to instruct the Athletic Director not to comply with Doctors Orders for the *Protective Riddle Helmet*, then violated HIPPA by reporting (M.Y.N.S.) medical disabilities to SCHSL for disqualification. He intentionally, willfully, and knowingly harassed (M.Y.N.S.) and took away the very thing the student cared most about in school "Football!" He was a disabled linebacker and proud of it! The Districts' conduct cost (M.Y.N.S.) opportunity for scholarship.

(R. Evidence for Jury Trial)

Mathew Dowdell, WFHS Principal failed to report, document, investigate, protect, and respond to parents' concerns of hazing, sexual contact, assault & battery, abuse, neglect, harassment, intimidation, bullying, and retaliation as the chief administrator of WFHS. Matthew Dowdell illegally and intentionally dropped (M.Y.N.S.) from enrollment at WFHS w/o informing his parents. As (M.Y.N.S.) testified, "*I lost all my motivation*" due to the harassment from Lisa

Doyle, Mathew Dowdell, Christopher Coleman, Brian Denny, and Richard O'Malley. The Pediatrician and Neurologist cleared (M.Y.N.S.) to play football and wrote an order for a Riddell Helmet with *cushion padding* in the front of the helmet to protect against concussion. Instead, (M.Y.N.S.) was given a sponge cap where he was severely humiliated, ridiculed and benched as a "linebacker" for his sophomore season. Matthew Dowdell, Principal, cancelled the *Post Secondary IEP Meeting* for (M.Y.N.S.) as a retaliation. Matthew Dowdell, continued to retaliate and harass (M.Y.N.S.) by placing him in Summer School and said he did not meet the requirements for graduation. His actions caused (M.Y.N.S.) to have double classes senior year. Which is impossible to complete. The mother (Hannah Secka) had to lose work 5 consecutive days as a History Teacher to complete EdGenuity Online Classwork none-stop 24 hrs. to ensure that (M.Y.N.S.) graduated on June 1, 2022. (R. Evidence for Jury Trial)

Lisa Doyle, SPED Teacher telling (M.Y.N.S.) he looked like "Wonder." Due to his craniofacial deformities and skull fracture. Then she intentionally failed him by going into PowerSchool and illegally changing his grade from 86 to 34, causing him to lose academic credits for promotion to become a rising senior. This is academic fraud. Her gross negligence caused (M.Y.N.S.) to lose credit in her Special Education class. He was put on the Summer School list. After this, (M.Y.N.S.) lost all hope in school and was placed on Homebound Instruction at the direction of his Licensed Clinical Psychologist Dr. Leah Pritchard-Boone and Primary Care Physician Dr. Richard Davis for Morbid Depression. Dr. Prichard-Boone describe (M.Y.N.S.) "*as in a vegetative state*." He was diagnosed with PTSD on 7/7/2021 due to school-based trauma. The district was so grossly negligent and extremely reckless in their conduct that they DENIED the Homebound Services request 3 times. (R. at 1E Seasons Psychology Evaluation/Bills p. 120-130)

(M.Y.N.S.) did not appreciate being compared to “Wonder.” It was an insult to him. A child with multiple disabilities and obvious craniofacial deformity should never be called or referred to any character in a book or movie regarding being bullied due to his facial deformities and disabilities. Social emotional harm is just as detrimental as physical harm. Words matter, and it is important to use respectful language when communicating about people with disabilities. This constant harassment from all angles of the school was pushing (M.Y.N.S.) over the edge. The purpose was to intentionally trigger his disabilities to justify arrest and/or expulsion from school. As a result of this incident the parents (Hannah Secka) had to provide the educational course work, childcare and lose time off from work Sept 2020 to August 2021 to educate (M.Y.N.S.) from home at his bedside at an annual salary of $60,000 as a SC History Teacher. The South Carolina Torts Claim Act (hereinafter, "SCTCA") defines a compensable "loss" as: *bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in cause of actions for negligence or gross negligence*, pursuant to S.C. Code § 15-78-40. . (R. Evidence for Jury Trial)

Testimony: (M.Y.N.S.) 11/16/2022 Deposition Lisa Doyle, Sped Teacher page 108-110

Q. Okay. How about -- what did Ms. Doyles do? Ms. Doyles, did she –

A. Oh, man.

Q. What did she do that wronged you?

A. Ms. Doyles, she -- I don't even know. Doyles, she -- she -- I didn't really like her class. Because well, for one, she failed me one time. And I felt some type of way about that because I was actually doing her work. And her work wasn't even that hard. That's why I don't understand why she failed me. Because I lost a whole credit because of that. And that actually set me back a lot. Like, I had to -- I had to pull a trick out the hat in my senior year. But she also -- she also -- I didn't -- I didn't really like her. Because it'll be certain things she would say and I would catch her saying that on accident. Like -- like, for example, one time she -- she -- she brought up -- she brought up the – the Wonder movie/book and she asked me if I ever watched it. And I said, yeah, yeah. I watched it when I was in seventh grade. She's like, yeah. Yeah. She made a comment basically, making it sound as if she was comparing me to the boy in the book, Wonder. And I didn't like that comment at all. Because it made me feel like -- like, you know, like what you trying to say, basically. You feel me? Like, it just made me feel very like – I don't know. I don't -- I can't even find a word to describe how I felt. I just didn't like how II don't know. I don't -- I can't even find a word to describe how I felt. I just didn't like how I felt. I didn't like how I felt at all. Because when she -- when she said, you remind me of the boy, I began to ask her and I was like, what you mean by that? And then I don't even think she elaborated on that. I don't -- I don't think she elaborated on that at all. I think. And after that, I just -- I just felt very singled out from basically, everybody in the school. Because I was like ,it just—I know—I know what the movie is and I read the book. So like, that's why I was really like, mad when she said that. Because she wouldn't elaborate when I asked her to.

MR. LYON: Okay. Just one sec. Can we take a break just real quick?

MR. KOZACKI: Of course.
(Whereupon a break was taken from the proceedings.)

By MR. LYON:
Q. Okay. Mr. Secka, your mom was telling
us that junior year, you didn't go to school at all?
A. Correct.

Q. Why -- why is that? In your words felt. I didn't like how I felt at all. Because when she -- when she said, you remind me of the boy, I began to ask her and I was like, what you mean by that? And then I don't even think she elaborated on that. I don't -- I don't think she elaborated on that at all.

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Well, I forgot to mention one main thing she actually did was – was when she did fail me, she did it like, in the sneakiest way possible, basically. Because what she did was she waited to the very last day of grade changes to change my grade. And when I noticed she did that, I asked her about it. Because I believe I had like, a 89 and the very last day of like, grade changes, she changed it to like, a 50 something. And when I asked her about it, I had already lost the credit because the semester had already changed. So she did it like, kind of fast, basically. Like, she did it like, on some end of the day type-ness. And when I asked her about it the very next day, she began to say, oh, I'm sorry. I'm sorry. And she tried to

change it, but by then, I had already lost the credit because the semester had changed. So it was kind of like, it was just weird because like, why would you do that? I felt like that was very wrong.

Q. Did you challenge that at all? It seems like something your mom would have challenged and you.

A. We did. We did. We talked about it. We -- we talked about it in I.E.P. that I was like, not smart enough to know that I had already lost my credit. She thought since I noticed she went and bumped my grade back up, that it was going to -- I guess, she -- she thinks that I didn't know good enough, basically.

Q. So you didn't -- you -- you – she took -- you're saying she failed you?
Did you get it fixed?

A. I mean, I still lost my credit, so, Okay. And -- She tried to change my grade thinkin I wouldn't know that I failed the class. But that's -- that's not -- I'm -- I'm telling you how she did it, though. Like, you --Right.

Q. But then, I mean, the teacher's going say-- I don't fail anybody. The student failed the class.

A. But that's -- that's not -- I'm -- I'm telling you how she did it, though. Like, you --Right. But then, I mean, the teacher's going. But she didn't ---- I don't fail anybody. The students failed the class. A But that's -- that's not -- I'm -- I'm telling you how she did it, though. She -- she failed me on the -- the day of grade changes at the end of the day is what I'm telling you. That's not -- that's -- that's --that's not how teachers -- teachers post --teachers put in grades before the day is over with. Especially, on the day when grades come out, so students can see their updated grade. That's how all my teachers did it. She didn't do it that way.

Q. That you had the grades to pass the class?
A. Right. I had a 89 throughout the whole entire semester is what I'm telling you.

Q. Well, is that -- is that what was posted in PowerSchool?
A. Yes. Yes.

Q. Okay. And then -- and then on the last day, you realize you have a 50?
A Right. Right. Because she -- she did it like -- she tried -- she tried to sneak and do it like I wouldn't notice is what I'm trying to tell you.

Q. I hear you. And but—but you—you addressed that with the school, did you not in the Special Ed setting, due process I.E.P. situation?
A. We addressed it, but I never received my credit back. So it was just like, addressed
for what exactly. Because all she did was just bump my grade down to a 30.

Q. So you still lost the credit somehow?
A. Yeah. Because she did it the day of grade changes. (*End of Testimony*) There was no cross-examination by Darryl C. Caldwell, Esq.

Ms. Secka taught her son his entire Junior School Year from his bed with the help of a child care worker. The mother requested the accommodation and services in (M.Y.N.S.) IEP be given at home and the district refused to provide any type of homebound services as retaliation, revenge, and pure malice. They reassigned Ms. Daisy Johnson (One-to-One Paraprofessional) to another student after she had worked with (M.Y.N.S.), since he was in Middle School. When the mother registered (M.Y.N.S.) for 12th Grade Matthew Dowdell and Brian Denny unilaterally transferred her away from (M.Y.N.S.) because she testified truthfully to the abuse, assaults, bullying, harassment, and the attack of SRO. This contributed to morbid depression. The employee they placed with (M.Y.N.S.) engaged in inappropriate conversations with (M.Y.N.S.) and told him outright that he didn't want to be with him and was eventually terminated for sexual harassment of a female colleague at the school.

Most egregiously, on page 5, Attorney Lyon's states: the District *failed to prevent (M.Y.N.S.) from getting into a "tussle" with two of his teammates in the locker room*. There was no tussle, he was hazed, battered, and physically attacked! On page 6 Lyon's minimized the brutal torture that (M.Y.N.S.) endured and the District suppressed evidence and concealed the crime to protect the quarterback on the West Florence High School football team (Cooper Wallace) so he could keep his football scholarship to the Citadel. Plaintiff (M.Y.N.S.) clearly described the criminal act of assault/hazing/battery/sexual contact by several teammates. Attorney Lyon deliberately distorted and misrepresented (M.Y.N.S.) testimony in the 2/12/2024 Memorandum. Attorney Lyon intentionally provided false misinformation to the Circuit Courts in his narrative for Summary Judgment. Plaintiff (M.Y.N.S.) definitively testified that he was attacked in the locker room with no supervision of school staff. He identified who did it and who he reported it to, and no action was taken. There is no mandatory Title IX investigation of these concealed crimes that have no statute

of limitations, where a Writ of Mandamus is appropriate. Their conduct is indeed gross negligence and extreme recklessness under the South Carolina Tort Claims Act. Richard O'Malley, Brian Denny, and Matthew Dowdell (WFHS) are in another Title IX federal lawsuit for *Criminal Sexual Contact* where a rape (sexual assault) was concealed of a special education student at WFHS on November 8, 2023. FSD1 has a pattern of concealing school crimes. Especially at West Florence High School. Another black disabled child was raped and given Gonorrhea by a white counterpart at West Florence High School. Which was intentionally concealed, and evidence was suppressed according to the lawsuit. The Board of Trustees allowed Matthew Dowdell to resign in disgrace and now he's working in Darlington County School District in Hartsville, SC at the Governor School of Science & Mathematics. Again, there is no statute of limitations on crimes committed in the State of S.C.

As Mandatory Reporters the district was grossly negligent, careless and reckless for failing to report this abuse and immoral conduct to SCDE for Educator Misconduct and other outside agencies for proper investigation and prosecution. Training Requirements for *Mandatory Reporters Citation*: Ann. Laws § 63-7-450. The Department of Social Services Protective Services shall inform all persons required to report pursuant to § 63-7-310(A) of the nature, problem, and extent of child abuse and neglect of their duties and responsibilities in accordance with this law. When a person is so "*indifferent as to his conduct as to not give slight care to what he is doing, he is guilty of gross negligence*." *Anderson v. Ballenger, 166 S.C. 44, 55, (1932).* The school employees exercised no care to protect (M.Y.N.S) from harm. The evidence shows that they "*knew*" exactly what happened to him, encouraged it, participated in it, and chose not to take control over the situation, then retaliated against the mother for bringing the concerns to outside agencies.

Institutional Responsibility to Report Citation: Ann. Code §§ 63-7-310; 63-7-315. A person who reports child abuse or neglect to a supervisor or person in charge of an institution, school, facility, or agency is not relieved of their individual duty to report in accordance with this section. The duty to report is not superseded by an internal investigation within the institution, school, facility, or agency. An employer must not dismiss, demote, suspend, or otherwise discipline or discriminate against an employee who is required or permitted to report child abuse or neglect pursuant to § 63-7-310 since the employee has made a report of child abuse or neglect. An employee who is adversely affected by conduct that is in violation of this section may bring a civil action for reinstatement and back pay. An action brought pursuant to this section may commence against an employer, including the State; a political subdivision of the State; and an office, department, independent agency, authority, institution, association, or other body in State government.

Standards for Making a Report Citation: Ann. Code § 63-7-310. A report is required when a reporter, in their professional capacity, receives information that gives them reason to believe that a child has been or may be abused or neglected. The Board and District Employees failed to act, respond, document, investigate internally, and report the mothers' complaints of abuse & neglect. Anyone required to report who knowingly fails to do so may be found guilty of a misdemeanor in the court of law and/or face disciplinary actions by the district. Under South Carolina Law, there is no statute of limitations for any crime, whether felony or misdemeanor.

Pursuant to FSD1 Board Policy JI Student Rights and Responsibilities

Students have civil rights. (R. Exhibit S Grievance Policy JII Designation of Matter)

The gross negligent and extreme reckless conduct of the entire Board of Trustees, Superintendent, Director of Special Education, Principal of West Florence High School, *district*

employees Christopher Coleman, Coach Jeff Lee, and Lisa Doyle as an entity due to their willful intentional neglect of duty, unprofessional, cruelty, immorality, dishonesty, retaliation and blatant discrimination has caused severe emotional distress for a lifetime of pain and suffering, both physical and mental injury of Post Traumatic Stress Disorder (PTSD) and medication to mother and student. (R. Evidence of Trauma Evaluations for Hannah Secka and (MYNS) for Jury)

Pursuant to FSD1 Board Policy GBE Staff Rights and Responsibilities

The Board expects all staff members, at a minimal:

-be faithful and prompt in attendance.

-follow, support, and enforce federal and state law, board policies, and administrative rules and district practices and procedures.

-be diligent in adhering to time frames and due dates.

-take care of and protect district property.

-demonstrate concern and attention toward his/her Board's legal responsibility for the safety, welfare, and protection of students.

-act professionally at all times.

-maintain a strictly professional relationship with students, both inside and outside of school.

Cultural Diversity:

The Board *will not* tolerate language or behavior which demeans or insults others, whether it stems from ignorance, emotionalism, or maliciousness. Any employee who violates this policy will be subject to dismissal. Branding (M.Y.N.S.) with a marker to mimic a tattoo is religious discrimination. (M.Y.N.S.), was a constant target in danger, who was continuously harmed mentally and physically when he was harassed, bullied, intimidated, and physically attacked by multiple students while inside the athletic locker room without supervision. Under SC Code of Laws 1976, this can be defined as a "*Hazing*" SC Code of Laws §16-3-510, "*Sexual Assault*" SC

Code §16-3-652, and FSD1 Board Policy JICFA Hazing, Specifically, (M.Y.N.S.) testified that, "*They both end up just basically start attacking me!*" South Carolina Code §16-3-210. *Assault and battery by mob*; investigation and apprehension; civil liability applies. Ex. 1, PLT FCSDO 000009-000010; Ex. 3, M.Y.S Dep. p. 77, In. 2 -p. 88, In. 8. Ex. 4, Hannah J. Secka Dep. p. 112, In. 13-18. Students have the right to be recognized and respected, (M.Y.N.S.) was abused and neglected by school employees. Ex. 4, Hannah J. Secka Dep. p. 150, In. 1-p. 151, In.18. After the hazing, assault & battery, and sexual assault occurred no school official took appropriate action to help to document, investigate, or report the school crimes committed against this vulnerable disabled child while in their care. Florence School District One Superintendent and Board of Trustees failed their "*duty of care*" and violated, Board Policy JII Student Concerns, Complaints, and Grievances for their "*oath of office*" when they failed to take action and investigate parent concerns, complaints, and allegations *pursuant to the Universal Citation* SC Code §59-25-160 *and* Board Policy GCQF Discipline, Suspension, and Dismissal. The District, Board, Superintendent, Director of Special Services, Principal of West Florence High School demonstrated gross negligence with a conscious disregard for the safety of (M.Y.N.S.) while in their care. They failed to adhere to their own Board Policies for school safety.

S.C. Code § 59-25-160 "*Just cause*" may consist of any one or more of the following:

(1) Incompetence;
(2) Willful persistent neglect of duty;
(3) Willful violation of the rules and regulations of the SCDE policies/procedures;
(4) Unprofessional or inappropriate conduct;
(5) Criminal Conduct
(6) Cruelty;
(7) Crime against the law of this State or the United States;
(8) Immorality;
(9) Any conduct involving moral turpitude;
(10) Dishonesty;
(11) Harassment, intimidation, or bullying (HIB)
(11) Evident unfitness for position for which employed; or failure to comply with contract.

During this entire assault, there were no supervision by any school officials, no administrators, no employees in the vicinity to supervise the football locker room when (M.Y.N.S.) was attacked by the quarterback and other upper classmen. The lawsuit argues that FSD1 was "*grossly negligent, careless and reckless*" for not having enough staff to monitor students and failing to take reasonable precautions to prevent the hazing, sexual assault, and assault & battery 3rd degree. They intentionally took no action after the mother continued for months seeking accountability for the injuries. The filing also says FSD1 failed to enforce adequate policies to prevent ongoing bullying of (M.Y.N.S.), such as a "*School Bully Safety Plan"* requested by his mother. FSD1 staff employees intentionally concealed a felony. Gross negligence is the "*intentional, conscious failure to do something which is incumbent upon one to do or the doing of a thing intentionally that one ought not to do*." *Ethrudge v. Richland School District No. 17*, 317, S.C. 50, 451 S.Ed 885 (1994) (R. Evidence for Jury Trial)

Plaintiff's IEP clearly states that (M.Y.N.S.) was to always have additional one-to-one supervision and Section 504 Accommodations were to take effect for extracurricular activities due to his Autism and Traumatic Brain Injury. Instead of providing a safe learning environment for (M.Y.N.S.), they've provided a breeding ground for violence and criminal activity. Defendant Florence School District One owed a *common law duty* to protect the minor child from harm, including abuse, neglect, hazing, bullying, harassment, intimidation, and assaults, while he was under FSD1 care, which is a "*breach of duty*." The student and his mother suffered severe physical harm, disease of hypertension, stomach ulcers, severe migraines, insomnia, night terrors, anxiety, depression, PTSD, libel, slander, defamation, neglect, abuse, false arrest, DJJ Assault & Battey 3rd degree (R. at Exhibit B p. 274) victim, invasion of privacy, lost wages, loss of enjoyment of life, negligence, gross negligence, pain and suffering and emotional distress because of the Board of

Trustees and *District Employee's* intentional actions or inactions and failure to protect (M.Y.N.S.) and act with reasonable care while standing in the *loco parentis* for the student when he was present at school, whether in the classroom, cafeteria, playground, locker room, bathroom, parking lot, or school bus. (R. Evidence of "*Fully Favorable*" Social Security Decision for Jury Trial)

In the State of South Carolina, the law defines battery charges within the context of assault and battery, with different degrees of the offence depending on the severity of the injury and other aggravating factors.as intentionally touching another without their consent or intentionally causing bodily harm to another person. Battery is an unlawful application of force directly or indirectly upon another person or their belongings, causing bodily injury or offensive contact. The attempt of battery is assault. It is for a jury to determine the fate of Kathy Luhrs, Christopher Coleman, Matthew Dowdell, Brian Denny, Richard O'Malley and WFHS Quarterback and other accomplice's actions against (M.Y.N.S.) and his mother, Hannah Secka.

Sexual Assault

What is SC Code 16-3-652?

Sexual assault is any type of forced or coerced sexual contact or behavior that happens without consent. Sexual assault includes rape and attempted rape, child molestation, groping, forced kissing and sexual harassment or threats. Sexual assault is a crime of power and control. The football locker room attack should have been documented and investigated for the appropriate criminal charges to be brought against the quarterback and the other upper classmen that attacked (M.Y.N.S.). Instead, the district protected the quarterback and concealed a crime. Sexual assault is any type of forced or coerced sexual contact or behavior that happens without consent. Sexual assault includes rape and attempted rape, child molestation, groping, forced kissing and sexual harassment or threats. Criminal sexual conduct in the first degree. (1) A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim and if any

one or more of the following circumstances are proven: (a) The actor uses aggravated force to accomplish sexual battery. David N. Lyon provided false testimony to the Courts in his narrative on Motion for Summary Judgment dated 2/12/2024. Coach Lee did nothing when the mother brought the proof of visible injuries her child obtained in the locker room on his watch. The Principal and the Superintendent engaged in a cover up to protect the quarterback (Cooper Wallace). They deliberately refused to act on parent concerns then brutally harassed, bullied, and intimidated a disabled child.

(R. at Exhibit A p. 112) Assault & Battery 3rd Degree FCSO Report# #2019-06-0227

What is SC code 16-3-300?

Pursuant to South Carolina Code Annotated 16-3-300(B)(1), the crime of assault and battery of a high and aggravated nature occurs when the Defendant unlawfully injures another individual resulting in: (1) great bodily injury to the other person OR (2) the act is accomplished by methods that are likely to cause death or..

What is SC code 16-3-600 C?
Assault & Battery 1st Degree

Under South Carolina Code Annotated 16-3-600, the crime of assault and battery in the first degree occurs when the defendant unlawfully injures another person by either: (1) nonconsensual touching of the private parts of a person (under or above the clothing), with lewd and lascivious intent OR (2) occurred during the…

Assault and Battery 3rd Degree – Also known as "Simple Assault," this charge is a Misdemeanor charge in South Carolina that often involves causing so-called "minor" injuries to someone else or simply threatening them with violence.

FSD1 Policy JICFAA Harassment, Intimidation and Bullying (HIB)

"*The Board prohibits acts of harassment, intimidation, or bullying of a student by students and staff, and third parties that interfere or disrupts a student's ability to learn and the school's responsibility to educate its students in a safe orderly environment in the class, school premises, school bus, school-sponsored activity or at any other program or function*." (**HIB**) is defined as a gesture, electronic communication, written, verbal, or sexual act reasonably perceived to have harmed a student physically or emotionally damaging a student's person or property.

Testimony: Hannah Secka (Mother/Guardian) DPH#1 4/10/2019 page 62-93 (Evidence for Jury)

The parents outlined the ongoing physical attacks, harassment, intimidation, and bullying of her son while being a student at Briggs Elementary, Sneed Middle, and West Florence High School in her testimony under oath during the due process hearing, causing physical bodily injuries, broken glasses, racial epithets, stolen cell phone, and taking his designer clothing. The Parent testified and district administration corroborated a suicide attempt by (M.Y.N.S.) due to all the peers and harassment, intimidation, bullying and physical attacks at school. The school staff created a foreseeable risk of third-party conduct to criminal acts perpetrated on (M.Y.N.S.). *Moore v. Berkeley County School District*, 326 S.C. 584, SE2d 9 (1998).

Testimony: DAISY JOHNSON DPH#1 4/10/2019 (One-to-One Paraprofessional) page 53-60

HEARING OFFICER: I have a question.

EXAMINATION BY HEARING OFFICER: (Doug Dent) (R. at p. 275-279)

Q: Ms. Johnson, have you .... you indicated that the other children had harassed M.Y.N.S. did you ever witness any incident where he was physically attacked?

A: One occurred, one had occurred but I hadn't gotten at work yet. It happened before I even clocked in during one morning at breakfast. That's what he had to go in the office about because somebody, this boy kept, he told the principal this boy kept bothering him, picking at him every morning, and we didn't know that, the principal didn't know that, and knocked his glasses off and stuff like that. Now I didn't even know what was going on, but he said that happened, the boy kept bothering him every morning, but I didn't see it because I wasn't there. We can't clock until 8:00 o'clock, but he said it happened like around about 7:30 like during the mornings, and they have the other supervision all around, but I wasn't there.

Q: So, the children got into a physical altercation?

A: Yes, him and this other boy.

Q: Any others that you can think of?

A: I can't think of none other. It almost been ....well, there's another one when I was on my break, when I got back they had already .... they was already gone out of the classroom. It was in the, it was like during the .... let's see, how that thing go, how it go, when I got back this little boy just came in the classroom and he was sitting in the back, but when I went to lunch, the coach asked I go at that time every morning, I went to lunch, when I got back this little boy was sitting behind M.Y.N.S., and how it got started was the little boy, the coach asked M.Y.N.S. to take his hood off, M.Y.N.S. took it off and put it back on again, and when he put the hood back on again, from my understanding the little boy left from the back and came and sat behind him and told him if he put it back on again, he told the coach that he would take it off, and that's when M.Y.N.S. got up. When M.Y.N.S. got up, the boy hit him in the stomach, so I think they gave the little boy OSS because he had started it. M.Y.N.S. said he knew that was going to happen because he used to be there, he knew that boy was going to do that because the boy was kind of fast like, fast mouth and started that argument.

Q: Did you ever witness any situation where multiple children were harassing him?

A: Two or three, recently two or three of them started bothering him, they started talking about like shoes and stuff, and their clothing and this little girl bust out and say that M.Y.N.S. told the little boy, the little boy sat beside him because they had quarrels from the other school, saying little boy sits beside him again, started an argument about clothes and shoes and stuff and this little girl burst out to M.Y.N.S. that you can't bother him, because that's my friend, and then they got all loud, the little boy got all loud because they they was in a fight before at Sneed, but this time the didn't because we stopped it, we stopped them because the boy jumped up and was ready to fight,

but I told them no, they can't do that. There won't be a fight. He wanted to fight M.Y.N.S., but M.Y.N.S. didn't want to fight, but he wanted to fight. This same little boy just started again. They got loud when they got out of class, a lot of cursing and stuff, this other boy, but (M.Y.N.S.) maintained. I just took him on to class. They just bother him a lot by petty stuff, M.Y.N.S. is a friendly person, and they love to jump in on him all the time and start this because it comes from before. The Local Hearing Officer gave NO WEIGHT to Daisy Johnson testimony.

Pursuant to FSD1 Board Policy JICFA Hazing

"*The district prohibits hazing*." The SC Code §59-63-274 defines hazing as the "*wrongful striking, laying open hand upon, threatening with violence, or offering to do bodily harm by a superior student to a subordinate student with intent to punish or injure the subordinate student, or other unauthorized treatment by the superior student of the subordinate student of a tyrannical, abusive, shameful, or humiliating nature*." (R. 16. Plaintiff Motion for Reconsideration Exhibit 1)

Pursuant to S.C. Code Section §59-63-275 *Student hazing is prohibited.*

Testimony: Daisy Johnson (Student One-to-One Para) 10/17/2023 Deposition p. 1-122

Testimony: (M.Y.N.S.) 11/16/2022 Deposition pages 89-102 (Hazing, Assault & Battery 3rd**)**
Direct Examination by MR. LYON: (R. at p.253-268)

A Okay. This was the locker room incident. So this was when me -- well, this is when I first started playing football actually. Yeah.

Q As a freshman, right?

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

Q Let me stop you real quick. Did you say fresh meat -- M-E-E -- I'm sorry. M-E-

A-T? meant started playing football, we were going to locker rooms and you know, we would all change and stuff. And it'll be kind of like -- it'll be common for the boys to start acting gay when we would change and like, put on our -- our football gear, basically. It'll be a common thing like, for the boys to actually start acting gay and stuff. Because like, that'd just be like -- that'd just be some people's thing, you know. But one -- one particular day, I remember these two -- these two white males, they were messing with me because -- well, one came up to me. He was like -- he was like, who are you? Oh, he was like, ***you the fresh meat***. And I was like Right. Right.

Q Okay. All right. Go ahead. Sorry.

A Now, I didn't understand what the term at the time, but I do now. So when I first like, what you mean by that? And he start laughing. And then he went and got his friend. He was like, hey, bro, we got fresh meat. And they start laughing. And then they start like, laughing and getting closer

and closer to me like, as I'm changing my clothes and stuff. And so one of the boys ends up like, grabbing my pants (penis area) and ends up just yanking them like, as I'm trying to put my pants on. And so I began to get up and try to basically defend myself because I had to point --at that point, I just felt like they was just trying to play with me just because I was new. So as I'm trying to defend myself, that's when they both end up just basically start attacking me.

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Q All right. Is this an issue that you've talked with Ms. Pritchard-Boone about?

A Right.

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

A Oh, yes. Yes.

Q Okay. On more than one occasion?

A Right.

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Q All right. What have those conversations been about?
A Well, me and Dr. Pritchard -- well, we frequently had conversations when it came down to like, school and like, things outside of school. But like, when -- there's certain topics that involve school would be topics that we're talking about right now. Like, football, bullying problems, class problems like, really anything that involves school, me, my mother like, our personal problems. But like, yeah. Yeah, that's -- that's basically what we would talk about.
Q All right. And I think *your mom* stated that she felt like that attack was essentially, criminal in nature, against the law, as we discussed earlier.
Q Do you agree with that?
A I believe so, yes! (*End of Testimony*) (R. at p.253-268)

Plaintiff (M.Y.N.S.) definitively testified that he was attacked and brutally injured in the locker room (*Cooper Wallace 5'10 185lbs and Jacob Ridgill*) with no supervision of school staff in that locker room. He identified who did it and who he reported it to, and no action was taken. There is no mandatory Title IX investigation of these concealed crimes that have no statute of limitations, where a Writ of Mandamus is appropriate to compel the District and State to perform their duty to protect (M.Y.N.S.) while at school. Their conduct is indeed gross negligence and extreme recklessness under the South Carolina Tort Claims Act.

On page 4 Lyon' violated (M.Y.N.S.) FERPA right to privacy by stating, "*he took another student's property and refused to return it, hitting a teacher who took his phone, pant-sing another student, cursing at a teacher, cheating, punching a student in the face, and fighting*." All of which the mother had no knowledge of the manufactured self-serving discipline referrals from 2017-2019 in the context of what defense counsel put in a legal document for summary judgment. (M.Y.N.S.) ***disability privacy rights*** of his discipline records are protected under the Family Educational Rights and Privacy Act (FERPA), a student's education record is any record maintained by an educational agency or institution that is directly related to a student and contains personally identifiable information. Lyon's had no written consent from the parents, he spoke of accusations that were fabricated, and the parent had no knowledge of such incidents, and the parents were never given an opportunity to *OBJECT* to this information as evidence in the lawsuit through undersigned counsel Darryl C. Caldwell or verify the accuracy of the false evidence, which is required by the law for children with special education rights. As a result of the mother's efforts and the gross negligence and retaliatory actions of the District by continuously suspending (M.Y.N.S.) when he was not even at school. This abuse is considered Exclusionary Discipline (punishing (M.Y.N.S.) a disabled student for behaviors that are a manifestation of his disabilities and retaliation for the mother going to the Office of Civil Rights (OCR).

Testimony: (Hannah Secka 11/16/2022 Deposition p. 1-154 for Jury Trial)

On 11/18/2019, a Manifestation Determination Review (MDR) hearing was held regarding FSD1's disproportionate suspension of (M.Y.N.S.) disability-related issues, which violated his civil rights. The IEP Team determined that his behaviors stem from his Traumatic Brain Injury (TBI), Autism, and ADHD. His discipline records are confidential, and David Lyon's portrayal of the (M.Y.N.S.) character was inaccurate and defamatory. Which violated Rule 60 (b)(3) Fraud,

Misrepresentation, or Misconduct of an Adverse Party; when the opposing counsel engaged in dishonesty or other bad-faith conduct that led to the judgment. Hence, all of Respondent's defense claims fail as a matter of law for not following the FRCP for a timely appeal (R. Evidence for Trial). **Judge Nettles ruled**: *A. Plaintiff claims has alleged facts sufficient to establish genuine issues of material facts sufficient to survive Defendant's Motion for Summary Judgment; B. Plaintiffs' claims are not towards individual employees named in the complaint, but rather for the school District, because of the conduct of those individuals in their capacity as employees; C. Plaintiff's claim is not barred by the SC Tort Claims Act Statute of Limitations because Plaintiff M.Y.S. did not reach the age of majority until January 7, 2022; D. Plaintiffs have pled facts sufficient to establish damages for emotional distress because a reasonable jury could find the conduct of District employees to be "extremely reckless." E. Plaintiffs have alleged facts sufficient to prove gross negligence, and Plaintiffs' claim is based on the District employee's failure to act, not the students' intentional conduct, therefore immunity would not be proper. The ultimate conclusion generally hinges on whether a school district "knew or should have known" of the need to exercise control over a given situation. Moore v. Berkeley Cnty. Sch. Dist. 326 S.C. 584, 486 S.E.2d 9 (Ct. App. 1998). M.Y.S.'s mother informed Jeff Lee, the junior varsity football coach, that some of the football team members were harassing M.Y.S. and that she was concerned for his physical safety and emotional well-being while participating on the football team Ex. 1PLT FCSDO 000012-000039. By failing to investigate the allegations, intervene with the players, or supervise M.Y.S. based on his knowledge of anticipated danger, the employee's failure to act proximately caused M.Y.S. to be both emotionally and physically harmed in the locker room with his teammates. Ex. 2D, Dr. S. Harris, Ph. D, Expert Dep. p. 61, In. 2-p. 64, In. 15. A reasonable football coach would have taken steps to protect his player from such harm, especially considering*

the vulnerable nature of M.Y.S. due to his mental condition. Id. The Plaintiff has provided expert testimony from Dr. Harris stating it is his opinion that there should have been action taken by this coach in this circumstance. Id. Based on how severe physical abuse in a football locker room could have become, the coach's conduct, and expert testimony stating what a reasonable educational employee should have done in that situation, a reasonable jury can find the conduct to be considered "extremely reckless". M.Y.S. has shown evidence of physical harm and it is reasonable for a child who already has emotional concerns to suffer extreme emotional harm from such conduct. Ex. 4 Hannah J. Secka Dep. p. 103, In. 8-p. 153, In. 5. Therefore, Plaintiffs have shown that a genuine issue of material fact exists as to whether the District through its employees, conduct was "extremely reckless" which is a question for the jury. (R. at p. 6-19)

Testimony: Alexis Pipkins Sr. FSD1 Board of Trustee Member DPH#2 (2020) pg. 84-102

EXAMINATION BY THE PARENT: HANNAH SECKA

Q. Good morning. Would you please state your full name for the record.

A. Alexis P. Pipkins, Sr.

Q. Okay. And how did you come to know the Secka family?

A. From mother's concerns and issues as it relates to IEP and specifically a state facilitator IEP meeting, which I attended as a citizen and to observe what was the process of the facilitator IEP meeting many years ago. I think it was at Sneed.

Q. You're correct. That was my next question. What school was that, could you state for the record?

A. That was at Sneed.

THE HEARING OFFICER: Okay. You were saying Smeed?

THE WITNESS: Sneed, S -- Henry Sneed.

THE HEARING OFFICER: Okay. Please understand –

THE WITNESS: I understand.

THE HEARING OFFICER: -- I'm not from here. No. No. You are speaking well for having a mask on. I'm not from this district area, so there are going to be names I'm not familiar with. Okay.

BY THE PARENT:

Q. Do I regularly attend board meetings?

A. Yes, ma'am.

Q. Okay. At any time did I attend a board meeting and give public participation for the citizens and parents where we fill out cards and provide them through the chair?

A. Yes, ma'am.

Q. Okay. Who keeps the cards?

A. The superintendent.

Q. The superintendent's name? His name?

A. Dr. Richard O'Malley.

Q. Okay. Did I ever bring the matter before the board through the chair of any physical abuse, bullying, harassment, private placement, regarding my son that the superintendent offered to me to the governing body to address?

A. Can you repeat the question again?

MR. WILLIAMS: Mr. Murphy, again, I'm going to object.

THE HEARING OFFICER: Let me hear the question again.

BY THE PARENT:

Q. Did I ever bring the matter of physical abuse, bullying, and a private placement voluntarily offered to me by Richard O'Malley to the governing body of the board of trustees to address regarding my son and his services in his IEP being neglected?

THE HEARING OFFICER: If you would, Mr. Pipkins, let Mr. Williams talk, if he has something to say.

MR. WILLIAMS: Yes, Your Honor. My objection was and I didn't get all of what she said, but I know there was a specific reference to the conversations with the superintendent about a private placement, which I know were addressed in the previous hearing.

THE HEARING OFFICER: I don't know the scope of it yet, so I'm going to overrule that objection. You can clarify scope on cross or --but the question itself doesn't tell me what, you know -- doesn't answer your objection.

MR. WILLIAMS: Okay.

THE HEARING OFFICER: So if something is beyond the scope and is going too long, we may define that and address it or you can just address it on cross. You may answer the question, sir.

THE WITNESS: If I understand the question correctly, you're saying has the proceeding, in terms of issues, have those been presented by the mother to the board? Am I understanding that correctly?

THE PARENT: Yes, sir.

THE WITNESS: And the answer to that would be yes.

BY THE PARENT:

Q. Okay.

A. And if I may elaborate, you presented them during public participation, and you have sent us numerous emails as well. (see email embedded below)

From: Hannah Secka hannsc2@aol.com

Date: July 16, 2019 at 9:56:45 AM EDT

To: Richard O'Malley <romalley@fsd1.org>, pstewart@mcgowanlaw.com, ejmciver@hotmail.com, Alexis.Pipkins@fsd1.org, JGalloway@fsd1.org, Bryan.Chapman@fsd1.org, Barry.Townsend@fsd1.org, davy.gregg@fsd1.org, artie.buxton@fsd1.org, Trisha.Caulder@fsd1.org, "Jennifer Barmon, Esq. OCR" <jennifer.barmon@ed.gov>

Subject: Emergent IEP Meeting for Bully Safety Plan

Dear Dr. O'Malley and Board of Trustees,

This is my 5th request for an Emergency IEP Meeting for my son. The State-Level Hearing Officer has ruled his 5/30/2018 has a stay put injunction and stated a meeting must be held to address the District's IDEA procedural errors.

He needs to have an adequate IEP before entering the 10th grade and I want to ensure all his related and support services remain in place, especially Ms. Daisy Johnson, one-to-one paraprofessional, a **Bully Safety Plan** addressed through his IEP, Section 504/ADA Staff Training, proper Office Civil Rights Grievance Procedures are in place to assist parents in adequate and prompt relief of concerns/complaints and his BIP, IHP and IEP are updated in accordance with his disabilities.

This is the only way I'm comfortable with my child's safety attending WFHS. Otherwise, I will move for Medical Homebound at the District's expense. You have a consistent pattern of failing to respond in writing to my parental letters. This is unprofessional and unacceptable.

Please arrange this meeting. It's urgent and imperative to address my child's needs and services and update his plans.

I would like an immediate response.

Hannah Secka (R. Evidence for Jury Trial)

Q. Okay. Was a packet ever presented to the board through the president and past chair with my concerns as well as images of physical bodily injuries of my son, as well as video footage of him fighting in the bathroom, on the playground, just ongoing violence?

A. Yes, ma'am.

THE PARENT: Okay. At this time,

Your Honor, I would like to present this exhibit of my public participation comments.

THE HEARING OFFICER:

If you would present exhibits to the court reporter, please.

THE PARENT: Yes, sir. I'm sorry.

THE HEARING OFFICER: And this would be Parent Exhibit 7. If the court reporter would mark that, please. (PARENT'S EXHIBIT NUMBER 7, Public Participation at Board Meetings Document, was marked for identification.)

THE PARENT: Thank you.

THE HEARING OFFICER: All right. Now, if you would step back, please, let me give counsel for the District an opportunity to approach and confirm they have a copy of it.

MR. WILLIAMS: Do you know what --

THE HEARING OFFICER: Let's not address each other.

MR. WILLIAMS: Okay.

THE PARENT: It's in there.

MR. WILLIAMS: Sure.

THE HEARING OFFICER: Okay. The District has a copy of what's been marked as Parent Exhibit 7. Is there any objection? Well, I'm unsure. Are you offering it at this time, or you just getting testimony about it?

THE PARENT: Uh ...

THE HEARING OFFICER: You want him to identify it? Okay.

THE PARENT: Yes, please.

THE HEARING OFFICER: All right.

THE WITNESS: Yes, sir.

THE HEARING OFFICER: What question do you have of the witness about what we marked as Exhibit 7?

BY THE PARENT:

Q. I lost my paper. Okay. So as I stated, all of the Florence citizens --

THE HEARING OFFICER: Ma'am, do you have a question of the witness about --

THE PARENT: That card?

HE HEARING OFFICER: Yeah. Can he identify it or what are you trying to do with it?

BY THE PARENT:

Q. Can you please identify what that is?

A. It is a copy of the public participation to the board meeting card.

Q. Are you able to read it?

A. I can't read it from here. It is blurry here, but I can read the written response somewhere, yes.

Q. Okay. But that is what we use to -- add our input as citizens and taxpayers, parents?

A. Yes.

Q. -- add our input as citizens and taxpayers, parents?

A. Yeah, I can read the -- what you identified as the issue.

Q. Can you read that, please?

A. Yeah, response to my son being abused, and I can't -- disrespect for LEA and the document and respond to -- it is blurry in terms of how the copy is made.

THE HEARING OFFICER: Okay. Thank you. Are you moving to admit at this time?

THE PARENT: Moving to admit that into --the document into evidence.

THE HEARING OFFICER: Any objection as Parent's 7?

MR. WILLIAMS: I don't have an objection. The date on there is a little bit unclear to me, but it looks like it's maybe 6-3-2019.

THE PARENT: That is accurate.

MR. WILLIAMS: Is that the accurate date?

THE PARENT: That's accurate. Okay.

THE HEARING OFFICER: Just --

MR. WILLIAMS: Sorry, I would say we don't object unless the substance of this is referring to something that happened prior to the last order. So while the date is certainly after the order, I don't know whether the conduct complained about is after the previous order.

THE HEARING OFFICER: Well, again, we'll attach the weight that should be attached to it after we create a fuller picture, but I'm going to admit Parent's 7 at this time. You may proceed, [The Parent].

BY THE PARENT:

Q. Okay. So was a packet ever presented to the board through the president and past chair with my concerns as well as, like I said, images of my son's physical abuse and his injuries?

A. As previously stated, yes, ma'am.

THE PARENT: Okay. I would like to present these into evidence.

THE HEARING OFFICER: Okay. You'll hand them to the -- hand everything to the court reporter, whatever you're putting together as an exhibit. Okay. For the record, she's offering three pages of photographs. And the -- just for purposes of identification, the first photograph is a picture of an arm. The second picture appears to be a photograph of a shoulder, and then the third paragraph is a picture of the front of an individual marked as Parent 8.

PARENT'S EXHIBIT NUMBER 8, Photographs, was marked for identification.) --

THE HEARING OFFICER: District may confirm it has copies of these three pages.

MR. WILLIAMS: Yes, sir, we have copies.

THE HEARING OFFICER: Okay. You may ask your questions of the witness.

BY THE PARENT:

Q. Okay. Also -- Elder Pipkins along with that in the packet --

THE HEARING OFFICER: He hasn't identified anything, [The Parent]. I don't know if Mr. Pipkins knows anything about this.

THE PARENT: Oh.

THE HEARING OFFICER: You have to ask you questions of Mr. Pipkins about --

BY THE PARENT:

Q. Have you ever seen those images? Were those the images presented to you, the board, and the superintendent?

A. I can't specifically recall, but there have been a number of pictures that you've sent to the board and provided to the board in terms of your concerns of physical abuse that have occurred.

Q. Okay. That's fair. Were there law enforcement --

THE HEARING OFFICER: Are you still offering this exhibit --

THE PARENT: Yes, I would like to present them as evidence.

THE HEARING OFFICER: Okay. Now, I get to hear from the District.

MR. WILLIAMS: We object, Your Honor. Two bases. I think these were all -- these all predated the prior hearing that concluded in May of 2019. And, so, it would have been either addressed or capable of being addressed at that hearing. And I also think that to his credit, Elder Pipkins testified honestly that he doesn't know whether these pictures were ones he's reviewed before or not.

THE HEARING OFFICER: Okay. On that basis, [The Parent], I'm going to sustain the objections. That does not mean you cannot offer them through yourself or another person, but based on the testimony I have right now, I can't admit them into evidence. They're still going to be marked as Plaintiff's Exh 8.

THE PARENT: Uh-huh.

THE HEARING OFFICER: Doesn't mean you can't get them in during the hearing. It just means you can't get them through with this witness.

THE PARENT: I got you.

THE HEARING OFFICER: All right.

THE PARENT: All right. So ask my next question?

THE HEARING OFFICER: Yes.

BY THE PARENT:

Q. Okay. Were police reports attached to the images as well?

A. I recall you having a police report.

THE PARENT: At this time I would like to --

THE HEARING OFFICER: Hand your document --put them up here. And The Parent is offering as --

THE PARENT: Two separate. One for assault and battery, and one for teacher abuse.

THE HEARING OFFICER: Okay. What I have is four pages of documents. One of them is identified as Case No. 2019-02-0194 Incident Report from Florence County Sheriff's Office, and that's the first page of proposed -- the proposed exhibit that we'll mark as Number 9. And then there are three pages identified as 2019-06-0227. Again, an incident report from Florence County Sheriff's Office, which is a

three-page report marked -- first page is unidentified, second is marked page 2 of 3 and the third is marked page 3 of 3. The District can confirm it has these, and we're going to go off the record for a second.

(PARENT'S EXHIBIT NUMBER 9, Incident Report, was marked for identification.)

(Off the record.) -- -

THE HEARING OFFICER: Okay. District now has identified the four pages that are being offered as Parent Exhibit 9. Is there any objection?

MR. WILLIAMS: And, Your Honor, I apologize, I've missed this. Has there been confirmation from Elder Pipkins that this was something that was presented to the board and they reviewed? I wasn't sure.

THE HEARING OFFICER: That's a fair point. I actually don't know that, Mr. Williams.

[The Parent], Mr. Williams is correct. You have to establish the witness had some knowledge about these particular documents.

BY THE PARENT:

Q. Do you have any knowledge about those document? Were they presented to the board through the chair and to every board member?

A. I'm aware of such.

Q. Thank you.

MR. WILLIAMS: I'm sorry, I didn't hear the response.

THE WITNESS: I'm aware of such.

THE HEARING OFFICER: You recall seeing those documents, sir?

THE WITNESS: Yes.

THE HEARING OFFICER: Do you recognize them?

THE WITNESS: Yes.

THE HEARING OFFICER: So your answer to the question is, yes, those were presented to the board?

THE WITNESS: I cannot recall if they were presented to the board or if they were emailed, but I know the mother has sent numerous documents, but I am familiar that this has been --

THE HEARING OFFICER: You recall those being --

THE WITNESS: I don't remember the mode in which they were transmitted to us, but I do ...

THE HEARING OFFICER: Fair enough. Any objection from -- and you're offering this as Plaintiff's -- Parent's Exhibit Number 9?

THE PARENT: Yes, sir.

THE HEARING OFFICER: Okay. Any objection?

MR. WILLIAMS: The only objection would be on the time issue because relevant to the prior hearing, the dates that I see on these are February of 2019, for one, which would have been prior to the conclusion of the previous hearing. And then it's a little confusing on the document that's identified with the last three digits 227, because with respect to incident date it says 5-29-2018, which would have also been prior to the previous hearing, but there's some places where it says 2019. So I'm not sure if that's a typo.

THE HEARING OFFICER: Let me ask it this way, [The Parent]: For what purpose is this being offered?

THE PARENT: As part of the full record.

THE HEARING OFFICER: Yes. But how does it relate to whether or not --

THE PARENT: That the District --

THE HEARING OFFICER: Let me finish my question.

THE PARENT: Uh-huh.

THE HEARING OFFICER: How does it relate to whether or not the District committed a violation and the timeframe covered by the complaint before me?

THE PARENT: The ongoing harassment, bullying, and attacks. My efforts to advocate for

my son and the ongoing just outright denial to invoke, enforce, and protect my son.

THE HEARING OFFICER: Okay. You understand my many statements to you about things have to be tied to this complaint and whether they violated --

THE PARENT: Him being abused is not a denial of fape (free appropriate public education)?

THE HEARING OFFICER: Well, ma'am, please listen to me. Okay. I'm concerned how much time we're spending on stuff in the past. I'm going to allow this document for a very, very limited purpose, but, again, you know, it's for you to present your case.

THE PARENT: Correct.

THE HEARING OFFICER: I am focused on this complaint, things that happened in the past that were covered by a prior proceeding. I can't find -- I can't find a violation based on that or not based on that. It may come in for a very limited purpose of background or notice to the board of your complaints. Whether that proves a violation or not, I don't know yet. Okay.

THE PARENT: What I'm trying to establish.

Your Honor is they say stuff was admitted. It's there. It's not. Some of the information that I'm bringing and proving is not a part of the record or there's a partial part where it indicates it is a part of the record and it’s not!

HE HEARING OFFICER: Well, I'm going to allow it in for a limited purpose now, but if you want to make the point that this was information presented to the IEP team or something, then you're going to have to establish that.

THE PARENT: Okay.

THE HEARING OFFICER: You haven't through this witness, but it's in at this point. Okay.

THE PARENT: When it comes to this particular image, this IEP meeting --

THE HEARING OFFICER: Okay. Ma'am, you're not testifying at this point.

THE PARENT: Okay.

THE HEARING OFFICER: Mr. Pipkins is the witness.

THE PARENT: All right.

THE HEARING OFFICER: All I'm trying to find out right now is whether Mr. Pipkins has any relevant knowledge about whether a violation occurred as covered by your complaint.

THE PARENT: Okay. All right. I understand. Thank you.

BY THE PARENT:

Q. All right. So the next matter at hand, Mr. Pipkins, was there a time I came to a board meeting through the chair, present, past, Mr. Townsend, Porter Stewart, and the chief complaints about IDEA and violations in my son's IEP services being ineffective, lack of response by superintendent in his capacity,

as well as Brian Denny retaliating against me, and his failure to respond to parent concerns of the drug distribution used at West Florence High School?

A. Yes, ma'am.

Q. Okay. Thank you. Was there ever a time when my parent comments of the public participation were removed from the record and you put forth a motion to have them imparted back into the official record?

A. I don't want to say removed, but they were excluded.

Q. Okay. And was there board action required?

A. I made a motion that the minutes be amended to reflect.

Q. Okay. What were the allegations that were lodged, do you recall?

A. I don't recall, but I know specifically what you were excluded from in the minutes. From my notes that I had taken, you were present at that meeting and you had also made comments in terms of concerns.

Q. Okay. To date, do you know if they have corrected that error?

A. It was -- those minutes were amended. I don't have a copy of those, but they were amended. Those minutes were amended.

THE PARENT: All right. That's all I have for this witness. Thank you. (end of testimony). The Local Hearing Officer (Brian P. Murphy) gave NO WEIGHT to the testimony of an active FSD1 Board Member.

Pursuant to S.C. Code Ann. §59-17-10, the school district is the "body politic and corporate," which may sue and be sued in its name. The District is under the management and control of the Board. S.C. Ann §59-19-10. Thus, there is generally no legal distinction between the District and

the Board. Whether this suit should distinguish between the District and the Board, and there are also no allegations against the Board, the Court should treat the District and the Board as one in the same. Nevertheless, the Plaintiffs' claims are not solely for emotional harm. The photos/images of the visible bodily injuries to face, lips and back and all about the body of (M.Y.N.S.), the Sheriff Department Incident Reports, Medical Documentation, and the Clinical Psychological Trauma Evaluations of (M.Y.N.S.) and Hannah Secka indicate that they both were intentionally physically and emotionally harmed and injured by school staff while under the care of the school district and all staff were mandated to act and report such violations of the school crimes pursuant to S.C. Code §§63-7-20 (310, 360, 390, and 410) and S.C. Code Ann §59-63-330 (School Crime Report Act).

The Board of Trustees were informed of the ongoing disability-based harassment, intimidation, bullying, physical attacks against (M.Y.N.S.) and school staff misconduct and failure to follow the established Board policies and local, state, and federal law and regulations for (M.Y.N.S.) to be safe and protected at WFHS. It was their duty and responsibility with consciousness, care, concern, and attention to always ensure student supervision pursuant to Board Policy GBE Staff Rights and Responsibilities. The District failed to respond, act, document, investigate and protect (M.Y.N.S.) pursuant to Board Policy BC: Board Member Conduct, and Board Policy BBAA: Board Authority and Responsibilities in violation of their "*oath of office*" pursuant to SC Code Section 8-1-10, and "*neglect of duty*" pursuant to Board Policy BBA: Powers and Duties, when abuse and misconduct was brought to their attention regarding (M.Y.N.S.). The *Ethical Conduct of Public Officials* and Employees pursuant to Section 8-13-700, et. seq. SC Code of Laws rules include being induced to perform or fail to perform an act in violation of his/her responsibility. (R. Evidence for Jury) SCSBA Online Policies (Designation of Matter)

On June 5, 2019, (M.Y.N.S.) and five (5) students overdosed on lased or "tainted" marijuana inside of a vape in the boy's bathroom at West Florence High School. Mathew Dowdell, Richard O'Malley, and the Board of Trustees failed to get (M.Y.N.S.) immediate medical care. The other four (4) students were escorted via ambulance to the local hospital emergency room. (M.Y.N.S.) was intentionally left behind to suffer and potentially die. (M.Y.N.S.) His One-to-One Paraprofessional Mrs. Daisy Johnson called Hannah Secka via telephone to inform her of the emergency. In his gross negligence, Matthew Dowdell instructed school staff to leave (M.Y.N.S.) behind at the school. Depriving him of immediate medical care. Which is a violation of Policy GBEC Drug-Free and Alcohol Schools/Workplace. (M.Y.N.S.) mother, Hannah Secka got her son the emergency medical treatment to recover. (R. N Drug Overdose Negligence). The district was grossly negligent by failing to document, reported to the public, or have the matter investigated by the appropriate authorities because FSD1 staff intentionally failed to follow their own policies to deliberately conceal the violence at WFHS. Richard O'Malley and Matthew Dowdell are in another Title IX federal lawsuit for *Criminal Sexual Contact* where a rape (sexual assault) was concealed of a special education student at WFHS on September 26, 2024. FSD1 has a pattern of concealing school crimes. (R. Evidence for Jury Trial)

Evidence: News Articles:

*Florence 1 Schools Sued Over Suspected Sexual Assault at Schoo*l by, Tonya Brown abc15News

"*When did this become rape?*" ~Richard O'Malley by, WMBF News 10/8/2024

Jane Doe v. Richard O'Malley Florence 1 Schools Case No. 4:2024cv05305

The Board of Trustees were informed of the ongoing disability-based harassment, intimidation, bullying, physical attacks against (M.Y.N.S.) and an assault on Hannah Secka by Christopher Coleman, WFHS AP (R. Exhibit Y 3/6/2020). They too, failed their oath of office, duty, and

responsibility with consciousness, care, concern, and attention to always ensure student supervision pursuant to Board Policy GBE Staff Rights and Responsibilities. The District failed to respond, act, document, investigate, and protect (M.Y.N.S.) civil rights and to keep him safe from harm pursuant to Board Policy BC: Board Member Conduct, and Board Policy BBAA: Board Authority and Responsibilities they are in violation of SC Code Section §8-1-10, and Neglect of Duty pursuant to BBA: Power and Duties, when abuse and misconduct was brought to their attention. Instead, they voted in an Executive Session on 11/11/2021, with a racially motivated vote of (6 white to 3 black) to sue Hannah Secka on frivolous claims with no merit of Due Process Hearing that was never held. The District as an entity has caused ***EXTREME Intentional Infliction Emotional Distress*** pursuant to the ***"tort of outrage***" and the deliberate indifference and reckless intent that no man can endure (*Hansson v. Scalise Builders of South Carolina*, (2007). *Ford v. Hutson, 276 S.C. 157*, 276 S.E.2d 776 (1981). The Ethical Conduct of Public Officials and Employees pursuant to Section §8-13-700, et. seq. SC Code of Laws rules include being induced to perform or fail to perform an act is in violation of his/her responsibility. The FSD1 aka Florence 1 Schools Board of Trustees should be dismantled. They destroy families!

Hannah Secka and her son were protected by the South Carolina Victims' Bill of Rights pursuant to S.C. Const. Art. 1 §24(C)(2). They have the:

Right to Due Process
S.C. Const. XIV §1 Art. 1 § 3
Participatory Rights
S. C. Code §16-3-1110 (C)
Right of Notice
S. C. Code §16-3-1110 (C)
Right to Protection
S. C. Const., Art. I, §16-3-1525(G)
Right to Restitution
S. C. Const., Art. I, §24(A)(9)
Right to Writ of Mandamus
S. C. Const., Art. 1 §24(B)

Finally, the Circuit Court erred that Plaintiffs' second cause of action asserting a breach of fiduciary duty must be dismissed as a matter of law. In South Carolina, pursuant to, §62-2-1075 a fiduciary (trust) duty is a legal and ethical obligation to act in the best interests of another person or entity. The duty requires the fiduciary (the person with the obligation) to prioritize the beneficiary's (the person whom the duty is owed) needs above their own and to avoid actions that could harm the beneficiary. The district failed to act and took no action to protect (M.Y.N.S.). By failing to disclose relevant information to the appropriate authorities to conduct investigations into the crimes committed against (M.Y.S.N.) caused severe emotional damage and pain and suffering. Accordingly, since (M.Y.N.S.) was a student at WFHS, we believe that FSD1 may have incurred a fiduciary duty to protect (M.Y.N.S.) from harm. It is well established that a fiduciary or confidential relationship is characterized by a unique degree of trust and confidence between the parties, one of whom has superior knowledge, skill or expertise and is under a duty to represent the interest of the other. The superior position of the fiduciary or dominant party affords him great opportunity for abuse of the confidence reposed in him. Additionally, Section §33-44-409 of the South Carolina LLC Act states that a person who owes a duty of care must refrain from engaging in grossly negligent conduct, intentional misconduct, or knowingly violating the law. Richard O'Malley was in direct violation of his contract for "*neglect of duty*" by failing to act and report the crimes committed by his students and staff upon (M.Y.N.S.) and Hannah Secka. The district' conduct was so "*extreme and outrageous*" so as to exceed "all possible bounds of decency" and must be regarded as "atrocious, and utterly intolerable in a civilized community; that no reasonable man could expect to endure it." *Argoe v. Three Rivers Behavioral Health*, L.L.C., (2011).

(R. Evidence Parent Request for Executive Session DENIED)

CONCLUSION

For the foregoing reasons, and pursuant to Rule 60(b)(1-6) and FRE 103 "*mistake,*" "*judicial error of law,*" "*newly discovered evidence,*" "*extraordinary circumstances,*" as well as "*fraud, misrepresentation*, *misconduct*" and *introducing fraudulent evidence-exhibits* by opposing counsel that was not disclosed to the Plaintiffs. Hence, Plaintiffs request disciplinary actions be taken against **David Nelson Lyon Esq**. We ask that he be **DISBARRED** for committing perjury and fraud on the Courts, we ask that the **Duff-Freeman-Lyon Law Firm** be sanctioned for their intentional conduct of knowingly concealing school crimes. They had a fundamental ethical duty to promote and uphold the administration of justice and are bound by a duty of candor, must avoid dishonesty or evasion, and are subject to the court's rules and supervision to ensure the fairness and integrity of the legal profession. Plaintiffs seek restitution from the Duff-Freeman-Lyon Law Firm for pain and suffering. Plaintiffs seek a Writ of Mandamus S.C. Const., Art. 1 §24(B), to compel the District to comply with all laws and statutes to obtain justice as victims of school crimes in the State of South Carolina. Plaintiffs seek an indictment for perjury and obstruction of justice against Matthew Dowdell, Brian Denny, Richard O'Malley, and that the Board of Trustees be charged with *malfeasance in office* for the intentional concealment of violent school crimes committed against both Plaintiffs. We ask that the 12th Circuit Court Order dated 2/27/2024 should be **AFFIRMED** and the 3/5/2024 Order should be **VOID** because the judgment was entered without proper legal authority, and **VACATED**, and the case **REMANDED** to the lower courts with explicit timeline instructions to enter judgment for the Appellants.

Respectfully submitted,

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

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April 21, 2026
Florence, South Carolina

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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

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

Case No. 2021-CP-21-02121

(Appellate Case No. 2024-001454)

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

v.

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

Certificate of Service

I **Hannah L. Secka**, hereby certify that she has caused the following party of record to be served with the foregoing, ***AMENDED Initial Reply Brief*** to be included in the record in the above captioned matter, by electronic/e-mail, and by mailing a copy on this ***6th*** day of ***January 2026***. A signature is required upon receipt form US Postal Service due to tracking.

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Certificate of Compliance

I, **Hannah L. Secka**, hereby certify that this ***Final Reply Brief of Appellants-Respondents*** complies with Rule 211(b), SCACR.

Respectfully submitted,

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