

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Roland O'Neil Rabon, Jr.,

Plaintiff,

v.

Paul Hulse, Cherie Durand, Kimberly
Thomason, Devon Puriefoy, Desa
Ballard, Mayra Michalski, Margaret Ann
Miniard, John and Jane Does ##1-14,

Defendants.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2024-CP-23-03236

ORDER AND FINAL JUDGMENT

RECEIVED

Aug 11 2026

SC Court of Appeals

This matter is before this Court as one of the damages hearings heard during the week of January 12, 2026. The hearing for Plaintiff Roland O'Neil Rabon, Jr. commenced on January 13, 2026. Based on the record and evidence presented, this Court makes the following findings of fact and conclusions of law: ¹

I. STATEMENT OF FACTS

As the Defendants Cherie Durand, Kimberly Thomason, Devon Puriefoy, Desa Ballard, Stacey Grist, and Margaret Ann Miniard (collectively, "Defendants") failed to file timely Answers to Rabon's First Amended Complaint ("FAC") filed on September 24, 2024, the FAC's allegations are deemed admitted, as follows:

Rabon, a licensed attorney in the State of South Carolina, has practiced law in Greenville County, South Carolina for over forty (40) years. (FAC at ¶¶ 30-31.) Prior to

¹ Prior to the damages hearings held during the week of January 12, 2025, Rabon and Defendants Hulse and Durand reached a settlement agreement in this action. As a result, all pending motions filed by Hulse and Durand were withdrawn and Rabon only proceeded against the remaining named Defendants. Further, Rabon never substituted any additional defendant in place of any of the John or Jane Doe Defendants referenced in his Amended Complaint. As such, this Order only applies to Kimberly Thomason, Devon Puriefoy, Desa Ballard, Mayra Michalski, and Margaret Ann Miniard.

May 17, 2024, Rabon enjoyed a sterling reputation as a skilled and ethical lawyer in the Greenville community. (*Id.* at ¶ 32.) He had built a successful law practice and owned an equity membership in the law firm of Ashmore Leaphart Rabon & Provence, LLC. (*Id.* at ¶ 33.) Both Rabon’s law practice and livelihood hinged upon his strong reputation as a skilled practitioner with high integrity and professional ethics. (*Id.* at ¶ 35.)

On May 21, 2024, Rabon received three (3) letters (dated May 17, 2024) co-authored, signed, authorized, and published by Defendants to over thirty (30) individuals and entities throughout Upstate South Carolina, including both his clients and colleagues (treated herein as, “Defamatory Letters”). (*Id.* at ¶¶ 236-38; see also Tr. Ex. 1-3.)² The Defamatory Letters falsely accused Rabon of engaging in a “Sham Probate Enterprise” consisting of a “pattern of racketeering activity,” including but not limited to “multiple, repeated, and continuous acts of mail fraud, wire fraud, and extortion.” (*Id.* at ¶¶ 41-42.) Prior to the Defamatory Letters’ transmittal, Defendants knew of the falsity of their accusations, understood the reputational harm they would cause by publishing such falsities, and nonetheless published the false accusations against Rabon to over thirty (30) individuals and entities. (*Id.* at ¶¶ 44-45.)

² Apart from Rabon, Defendants transmitted the Defamatory Letters *inter alia* to the following individuals and entities: Trey Suggs, Jennifer Browning, Browning Geriatrics, Tracy Parsons, Joseph Plaxco, Frank Plaxco, William Fore, Bon Secours Health System, Inc., St. Francis Physician Services, Inc., Tyler O’Shield, Carrie Woodall, Clayton Jennings, Caroline York Grist Lyon, Leyland H. Lyon, Jr., Priscilla Mickie Grist, Chris Couchell, Erin Couchell, Kiki’s Kare, LLC, Tyler McLeod, Adam Lee, Dan Collins, The Vanguard Group, Vanguard Flagship Services, Mike Bridges, Cheryl Borum, Abigail Hodges, Colton Bazzle, Scott Montjoy, Lisa Browning, SC House Calls, Inc., Jeff Allen, UBS Financial Services, Inc., Renee Tedrick, Shelton Tate, TNB Financial Services, Melanie Hughes, and Dixon Hughes Goodman, LLP.

Despite the gravity of their accusations, not one of the Defendants ever phoned Rabon to inquire or express concerns about conduct they falsely labeled as “racketeering” but have never specified, even to date. (*Id.* at ¶ 47.) According to the FAC, “simply no factual basis supports Defendants’ unhinged accusations against Rabon” as set forth in the Defamatory Letters. (*Id.* at ¶ 4.) “The letters served no purpose necessary to filing a lawsuit.” (*Id.* at ¶ 10.)³ Instead, for no *bona fide* reason, Defendants intentionally, recklessly, and wantonly published their false accusations in the community where Rabon lives, where he raised his family, where he goes to church, and where he has practiced law supporting his family for over four (4) decades. (*Id.* at ¶ 5.)

“Defendants jointly, intentionally, and maliciously authored the Defamatory Letters accusing Rabon and the other recipients of baseless accusations all while knowing that some or all of the recipients, including Rabon himself, were in no way blameworthy for what they were accusing them and could not be liable to them.” (*Id.* at ¶ 7.) In short, “Defendants knowingly over-published the Defamatory Letters to recipients who they knew could never be viable Defendants in the lawsuits they threatened and against whom they could never assert causes of action in good faith.” (*Id.* at ¶ 9.) Due to these facts, the FAC averred, “No privilege protects Defendants” from their false accusations in the

³ Despite Defendants claiming they were “confident a valid RICO case exists against the recipients” in such correspondence, the Defamatory Letters fail even to identify the clients on whose behalf they were transmitted. (See Tr. Ex. 1-3.) Nor do the Defamatory Letters provide any factual explanation as to how Rabon participated in a “Sham Probate Enterprise,” how he engaged in a pattern of racketeering activity, or how he committed continuous acts of mail fraud, wire fraud, and extortion. (*Id.*) The Defamatory Letters nowhere make a demand for any relief from Rabon, monetarily or otherwise. (*Id.*) They do not attach a draft pleading. (*Id.*) After carefully reviewing the same, the Court cannot discern what objective, legitimate or otherwise, Defendants’ transmittal of the Defamatory Letters was intended to achieve.

Defamatory Letters. (*Id.* at ¶ 51.) And, even if a privilege somehow once existed, the foregoing facts “forever extinguished” such protections because they exceeded the privilege’s scope as to both content and as to whom the remarks were published. (*Id.* at ¶ 53.) Upon receiving the Defamatory Letters, Rabon acted as quickly as he possibly could to preserve his reputation against Defendants’ malicious attacks.

II. PROCEDURAL HISTORY

On May 17, 2024, Defendants transmitted the Defamatory Letters accusing Mr. Rabon of committing various federal crimes as well as violations of South Carolina law. On May 24, 2024, Rabon filed suit against Defendants thereafter filing a First Amended Complaint on September 24, 2024 asserting claims for libel, libel *per se*, slander, slander *per se*, intentional interference with prospective contractual relations, civil conspiracy, and violations under the South Carolina Unfair Trade Practices Act.

Defendants were duly served and timely filed motions to dismiss pursuant to Rule 12 of the South Carolina Rules of Civil Procedure (“SCRCP”). On October 3, 2024, Judge Salvini issued Form 4 Orders denying Defendants’ respective motions to dismiss. On October 14, 2024, Defendants filed a Motion to Alter or Amend Judgment under Rule 59(e), SCRCP. On October 29, 2024, Judge Salvini issued an Initial Order regarding Defendants’ Motion to Alter or Amend Judgment under Rule 59(e), SCRCP, which established that the motion would be decided on written submissions and set the deadlines for the same. Defendants’ Answers to the FAC were due on October 18, 2024. However, Defendants did not file their Answers until November 12, 2024.

On October 28, 2024, counsel for Mr. Rabon filed an affidavit requesting the Court enter default against the Defendants under Rule 55, SCRCP. On November 4, 2024,

Defendants filed a Petition to the Chief Justice of the South Carolina Supreme Court seeking the recusal of Judge Salvini. On November 12, 2024, Mr. Rabon filed a motion for default judgment pursuant to Rule 55(b) and requested a damages hearing. On November 18, 2024, the Defendants filed their Objection and Motion to Set Aside Entry of Default. On November 27, 2024, the Court denied Defendants' Motion to Alter or Amend Judgment under Rule 59(e). On December 27, 2024, Defendants filed an appeal of Judge Salvini's order with an amended appeal following on December 30, 2024. The South Carolina Court of Appeals dismissed the appeal on January 6, 2025. On January 16, 2025, Defendants filed a Motion to Reinstate the Appeal which was subsequently denied on April 17, 2025. On February 11, 2025, Defendants filed a Supplemental Petition to the Chief Justice of the South Carolina Supreme Court. Finally, on February 13, 2025, the Chief Justice issued an Order assigning this matter and the other related matters (*Rabon v. Hulsey*, Case No: 2024CP2303236; *Jennings v. Hulsey*, Case No.: 2024CP2303271; *Suggs v. Hulsey*, Case No.: 2024CP2303258; *Browning v. Hulsey*, Case No.: 2024CP2303730) to the undersigned for further handling.

On April 4, 2025, this Court issued a Form 4 Order granting Plaintiffs' Motion for Entry of Default and denying Defendants' Motion to Set Aside the Entry of Default with a more fulsome written Order following on April 17, 2025. On April 28, 2025, Defendants filed a Motion for Reconsideration and to Alter or Amend this Order. On July 10, 2025, Defendants filed a Motion for Judgment on the Pleadings or in the Alternative for a Stay. On July 30, 2025, Defendants filed a Motion to Bifurcate these proceedings.

Finally, on December 8, 2025, this Court scheduled the damages hearing to begin the week of January 12, 2026, and to hear all outstanding motions on Monday, January 12, 2026.

III. EVIDENCE PRESENTED

Rabon presented evidence of his damages through both testimonial and documentary evidence.⁴ Beginning with the testimonial evidence, Rabon presented the following three witnesses: Thomas Stephenson (“Stephenson”), Plaintiff Rabon himself, and his spouse, Susan Williams Rabon (“Susan”).

a. Testimony of Attorney Tom Stephenson

Mr. Stephenson is a founding member of the law firm of Stephenson & Murphy. He is a well-respected lawyer who has practiced law in Greenville County and throughout the Southeast for over forty-five (45) years. He primarily represents clients in employment matters, labor disputes, corporate lawsuits, and commercial litigation. The South Carolina Supreme Court has certified Mr. Stephenson as a specialist in labor and employment law. A significant portion of his practice now focuses upon mediating cases.

⁴ On January 15, 2026, two days *after* the evidentiary hearing concluded on Rabon’s damages, Defendants filed what they labeled as a “motion in limine” seeking to raise various evidentiary objections after-the-fact. The Court denies Defendants’ motion wherein they belatedly attempt to interpose evidentiary objections concerning documents and testimony Rabon introduced during the hearing without any objection. Under South Carolina law, any evidentiary objections made after the hearing concluded are waived. See *Doe v. S.B.M.*, 327 S.C. 352, 356, 488 S.E.2d 878, 880 (Ct. App. 1997) (Applying in a hearing to determine damages in a default judgment hearing the well-settled rule: “The failure to make an objection at the time evidence is offered constitutes a waiver of the right to object.”) However, the Court will review and determine the admissibility of outstanding objections, if any, that were not already adjudicated during the hearing (*i.e.*, were taken under advisement) to the extent such objections were contemporaneously made on the Record by Defendants.

Stephenson testified about both his personal friendship and professional relationship with Rabon for over four decades. According to Stephenson, prior to May 17, 2024, Rabon enjoyed a strong reputation in the Greenville legal community as both a skilled and ethical attorney particularly in probate law. Stephenson explained that an attorney's reputation is his most valuable asset as his reputation permeates and dynamically impacts his ability to work with other lawyers, to establish trust with the judiciary, to represent his clients effectively, and, in turn, to attract new legal work. His testimony established reputational harms incurred by lawyers are exceptionally difficult to repair and perhaps even more difficult to quantify, since attorneys rarely know about the prospective clients they have lost due to perceived reputational stains.

According to Stephenson's testimony, after the transmittal of the Defamatory Letters in May of 2024, news of the false accusations spread by Defendants immediately rifled throughout the Greenville Bar. He explained the harms to Rabon's reputation were undoubtedly exacerbated due to the closely connected nature of the Greenville Bar where substantially all of the lawyers know each other within one or two degrees of separation.

Stephenson highlighted why reputational injuries prove especially harmful to veteran lawyers such as Rabon. Unlike younger lawyers who have the balance of their careers to recapture their professional reputations after being falsely sullied, older attorneys have a substantially shorter professional runway to repair their reputations to the extent it is even possible. Attorneys like Rabon must unfortunately endure the disappointment and mental anguish associated with the reality their life's work has been

stained by recklessly defamatory accusations.⁵ Based upon his relationship with Rabon for over decades and his recent interactions with Rabon since the Defamatory Letters have spread, Stephenson has observed that the false accusations have negatively impacted Rabon psychologically but does not know exactly to what extent.

b. Testimony of Roland O'Neil Rabon, Jr.

Mr. Rabon was the second witness in his presentation of damages. Rabon is an equity owner of the law firm of Ashmore Leaphart Rabon and Provence, LLC. Over seventy percent of the work Rabon relies upon to support himself and his family comes from referrals. He testified about his educational background and legal career spanning over four decades.

While he grew up in Kingstree, South Carolina, Rabon moved to Greenville over forty years ago. He has practiced law in this community ever since. Rabon raised his family in Greenville. He goes to church in this community. And much of his immediate and extended family remains here or nearby.

Rabon offered significant testimony about his professional career. He described how long he had to work to build a self-sustaining legal practice. He spent decades building relationships with other attorneys, with members of the community, and with

⁵ Stephenson also testified about one of the individuals who Defendants intended to receive their Defamatory Letters. Trial Exhibit 1 reflects that one of the intended recipients was Frank Plaxco. Like the other recipients, the Defamatory Letters accuse Frank Plaxco—in May of 2024—of participating in “widespread, comprehensive, systematic, continuous, ongoing scheme to deceive and defraud others” uncovered by Defendants “exhaustive investigation.” (Tr. Ex. 1, p. 1.) As further evidence confirming the illegitimacy of the accusations in Defendants’ Defamatory Letters, Stephenson testified that he had previously practiced law with Frank Plaxco at Leatherwood Walker Todd & Mann, P.C. Despite Defendants’ accusations of Plaxco’s ongoing efforts as a racketeer, Stephenson confirmed Frank Plaxco passed away in July of 2020 and had not practiced law for a significant time prior to his death.

referral sources. He described how he has always made a point of answering the calls of colleagues and providing them free advice on probate issues when they needed help. Rabon gave presentations and did *pro bono* work. He regularly worked for the Department of Social Services. In short, Rabon's testimony described the efforts of a hardworking attorney who has spent the majority of his lengthy legal career building a valuable reputation and correspondingly a self-sustaining legal practice predominantly based upon referrals in Upstate South Carolina.

Of importance, Rabon learned about the Defamatory Letters before he even received them by certified mail in May of 2024.⁶ According to Rabon, he received a phone call from a fellow member of the Greenville Bar, who was *not* himself a recipient of the Defamatory Letters, calling to make sure he was okay. At first, Rabon did not know what the attorney was even referencing. Rabon's testimony, in this regard, illustrates how quickly the false statements in the Defamatory Letters were republished to third-party non-recipients in the Greenville Bar. Rabon confirmed the content of the Defamatory Letters rapidly and widely spread throughout the Greenville Bar.⁷

Rabon described his torrent of emotions when learning about the Defamatory Letters' content. He described feeling angry, sad, and worried. He recalled routinely worrying about whether other individuals believed he was a serial felon and racketeer, as Defendants had falsely claimed. According to Rabon, he explained how he suffered from

⁶ While Defendants authored the Defamatory Letters on letterhead for the Hulsey Law Group, *see, e.g.*, Tr. Ex. 1-3, Rabon testified he received the correspondence in an envelope from the Law Offices of Truluck Thomason. *See* Tr. Ex. 4. Yet, when Defendant Puriefoy and Thomason were deposed, they refused to answer any questions about the Defamatory Letters, including who actually mailed the correspondence.

⁷ Like Stephenson, Rabon described the Greenville Bar as a close-knit community, which further enhanced the harm to his reputation.

sleeplessness and how his mental well-being impacted his home life and familial relationships for the past two years, facts his wife Susan's testimony later mirrored. He recounted the embarrassment he felt for exposing his wife and family to shame, despite not having done anything Defendants had accused him of doing. Rabon also testified that Defendants' false accusations drained him of the satisfaction he used to derive from the practice of law.

Between July and September of 2024 and *after* Rabon had sued Defendants in this action, Defendants proceeded to file three federal lawsuits naming Rabon, along with almost all of the other named recipients of the Defamatory Letters. Yet, as both Rabon and Stephenson both testified, by the time Defendants filed their federal lawsuits, Rabon had already sustained significant reputational harms, as the content of the letters had immediately cycled throughout Rabon's referral base (*i.e.*, the Greenville Bar) in May of 2024. The United States District Court thereafter dismissed all three of the federal lawsuits finding in each Order, amidst an array of other defects, that Defendants' Federal Complaints failed to allege against Rabon (and all of the parties sued in the Federal lawsuits) even a "single predicate act of racketeering activity, let alone two, to plausibly plead a pattern of racketeering under § 1962(c) or a conspiracy under § 1962(d) to violate § 1962(a) or (c)." (Tr. Ex. 9 at 30, Tr. Ex. 10 at 30, Tr. Ex. 11 at 26.) Thus, as Rabon pointed out during his testimony, even after Defendants knew he was suing them and accused them of publishing knowingly false accusations about him, Defendants were

incapable of alleging factually plausible allegations about Rabon to sustain their Federal Actions, even when they were personally incited to do so.⁸

Rabon recounted how Defendants' false accusations inflicted significant financial harm upon him. As reflected in Trial Exhibit 5, Rabon indicated that in 2023 his personal fee income was \$496,891.54.⁹ Yet, in the very next year after Defendants transmitted the Defamatory Letters in May, his personal fee income immediately dropped to \$263,408.32, a difference of \$233,483.52. In 2025, Rabon's personal fee income slightly rebounded to \$303,184.03, a difference of \$193,707.51. When questioned, Rabon indicated he knew of no other plausible explanation causing the two-year combined drop in personal fee income totaling \$427,191.03 (treated herein as, "Lost Business Damages"), other than the false accusations Defendants published in the Defamatory Letters, which were immediately and extensively republished throughout the Greenville Bar. (See Tr. Ex. 5.)

Rabon also identified three other categories of financial losses in his testimony. First, in dealing with the fallout of the accusations in the Defamatory Letters, Rabon testified he lost (conservatively speaking) eighty (80) hours in billable time at an hourly rate of \$550.00 per hour for a total of \$44,000.00 (treated herein as, "Lost Time Damages"). (Tr. Ex. 5.) Second, Rabon also testified that mental anguish, his lost love for his profession, diminution in personal fee income, and the impacts on his family have

⁸ The Court also notes that Rabon testified that, to date, none of the Defendants have recanted the false accusations, nor have they apologized to Rabon.

⁹ The personal fee income number reflects the work originated by Rabon and directly ties to his compensation. It is not impacted by overhead and costs, which remain relatively flat year over year, and remain an obligation on Rabon's part regardless of how the personal fee income trends up and down.

all combined as factors compelling him to retire earlier than he had ever planned. As a result, he is right now at work winding down his practice and conservatively estimates his retirement has been accelerated by no less than two years sooner than it otherwise would have been had Defendants not stained his reputation. Rabon testified that retiring early by two years will cause lost personal fee income totaling \$708,989.26. Last, Rabon testified that, as of December 31, 2025, he had incurred legal fees and costs totaling \$175,874.56.

c. Testimony of Susan Williams Rabon

Susan Williams Rabon ("Susan"), Plaintiff Rabon's wife, was his final witness. Susan described how the false accusations embedded in the Defamatory Letters humiliated her husband, caused him significant anxiety, and great sadness. Susan recounted how her husband had always loved practicing law and in particular gained great joy from helping clients and their families manage the unique problems and stressors arising when a loved one, typically an aging parent, began to decline substantially in health and mental capacity. She described the nature of his practice as her husband's calling indicating how good he was at it and how it provided professional fulfillment, until May of 2024, when Defendants' false accusations "broke" him. Susan confirmed that prior to May of 2024, her husband had no plan to retire from the practice of law but now finds himself incapable of continuing and is winding his practice down. According to Susan, Defendants stole that from her husband.

Susan testified that Rabon's unique spark had faded since May of 2024. For the past two years, her husband was and remains too often not in the "present." She described how in the middle of the night, he regularly awakes and how anxiety and

sadness prevents him from sleeping. He loses his train of thought. By way of example, Susan recalled an instance when her husband could not remain focused and present long enough to play *Go Fish* with his granddaughter, who he adores. On another occasion, Rabon uncharacteristically snapped at one of his children during a family dinner for joking about the accusations against him. Susan related the Defendants' conduct had similarly inflicted strain upon their marriage. She discussed her husband's constant anguish about whether people he did not know particularly well wondered whether he was a racketeer or felon. Susan described the impacts on Rabon in severe terms.

In addition to the foregoing testimonial evidence, this Court also considered the following exhibits which were entered into evidence in this case without objection: (1) Michalski Defamatory Letter; (2) Grist Defamatory Letter; (3) Schnabel Defamatory Letter; (4) Copy of Delivery Envelope for May 17, 2024 Defamatory Letters; (5) Fee Income Losses, Early Retirement Losses, and Lost Time Losses; (6) Maynard Nexsen/Wilkins Davis Attorney's Fees & Costs; (7) Economic Damages Summary; (8) EPOCH Times Article dated February 24, 2025; (9) Michalski Order; (10) Grist Order; (11) Miniard Order; (12) Thomason Depo. Transcript/Exhibits; (13) Puriefoy Depo. Transcript/Exhibits; (14) Ballard Depo. Transcript/Exhibits; (15) Durand Depo. Transcript/Exhibits.

IV. LEGAL AUTHORITY

"It is well settled that by suffering a default, the defaulting party is deemed to have admitted the truth of the plaintiff's allegations and to have conceded liability." *Roche v. Young Bros., Inc., of Florence*, 332 S.C. 75, 81, 504 S.E.2d 311, 314 (1998). "In a default case, the plaintiff must prove by competent evidence the amount of his damages, and such proof must be by a preponderance of the evidence." *Jackson v. Midlands Human*

Res. Ctr., 296 S.C. 526, 529, 374 S.E.2d 505, 506 (Ct. App. 1988). However, in an action for libel *per se*, common law malice and general damages are presumed. *Erickson v. Jones Street Publishers, LLC*, 368 S.C. 444, 629 S.E.2d 653, 664 (2006); *see also Kunst v. Loree*, 424 S.C. 24, 39, 817 S.E.2d 295, 302–03 (Ct. App. 2018) (“When a defamatory statement is actionable *per se*, the plaintiff need not prove general damages—as these damages are presumed—and the defendant is presumed to have acted with common law malice.”). Such presumed damages include injury to reputation, mental suffering, hurt feelings, and “similar injuries, incapable of definite money valuation.” *Whitaker v. Sherbrook Distrib. Co.*, 189 S.C. 243, 246, 200 S.E. 848, 849 (1939); *see also Capps v. Watts*, 272 S.C. 276, 281, 246 S.E.2d 606, 609 (1978); *Lily v. Belk’s Dept Store*, 178 S.C. 278, 284, 182 S.E. 889, 891 (1935). Damages may extend into the future and may be permanent. *See Abofreka v. Alston Tobacco Co.*, 288 S.C. 122, 126, 341 S.E. 2d 622, 625 (1986).

Under South Carolina law, a defamation plaintiff must demonstrate clear and convincing evidence of actual malice to warrant an award of punitive damages. *Tharp v. Media General, Inc.*, 987 F. Supp. 2d 673 (D.S.C. 2013) citing *Hainer v. Am. Med. Int’l, Inc.*, 328 S.C. 128, 135, 492 S.E.2d 103, 107 n.8 (1997) (“We remind trial judges that in cases in which the issue of punitive damages is submitted to the jury, there must be clear and convincing evidence of actual malice to warrant such an award.”); *see also* S.C. Code Ann. § 15-33-135; *see also Miller v. City of West Columbia*, 322 S.C. 224, 471 S.E.2d 683 (1996) (award of \$500,000 punitive damages in defamation case); *Kelley v. Wren*, 415 S.C. 379, 782 S.E.2d 406 (Ct. App. 2016) (award of \$250,000 in punitive damages in libel case).

In a default case, “[t]he trial judge has considerable discretion regarding the amount of damages, both actual or punitive.” *Austin v. Specialty Transp. Servs., Inc.*, 358 S.C. 298, 310, 594 S.E.2d 867, 873 (Ct. App. 2004). Because of this discretion, the “review on appeal is limited to the correction of errors of law.” *Id.* (explaining standard of review does not require Court of Appeals to weigh the evidence, and instead, it must only determine whether there is any evidence to support the damages award).

In determining the award of damages in this case, this Court also relied on the following authority which are analogous defamation cases. In *Sulka v. Hoagland*, Case No. 2017-CP-07-01547, the plaintiff who was serving as the Mayor of Bluffton brought a defamation action against the defendant after the defendant circulated emails to Chamber of Commerce members accusing her of misusing public funds, engaging in criminal conduct, and being unfit for office. A jury returned a verdict for the plaintiff in the amount of \$40,000,000.00 in actual damages and \$10,000,000.00 in punitive damages. Similarly, in *Kellie and Kayla Bingham v. Medical University of South Carolina*, Case No. 2016-CP-08-013, plaintiffs brought an action for defamation alleging they were falsely accused of cheating which led to their expulsion. Based on these facts, a jury awarded each plaintiff \$750,000.00. The case of *Kunst v. Loree*, 424 S.C. 24, 817 S.E.2d 295 (Ct. App. 2018) also proves instructive. In *Kunst*, a jury awarded the plaintiff \$1,000,000.00 in actual damages after defendant falsely accused the plaintiff of embezzlement, creating false invoices, and other criminal acts that harmed his reputation and business. The South Carolina Court of Appeals affirmed the verdict.

V. ANALYSIS

After thorough review of the testimonial and physical evidence presented in this case, this Court finds Rabon has presented sufficient evidence to support an award of economic damages against Defendants totaling \$1,180,180.29 consisting of Lost Time Damages, Lost Business Damages, and Early Retirement Losses, as discussed above and supported by the evidence of record.

Because this case involves admitted allegations of libel *per se*, Rabon was not required to prove general damages. *See also Kunst v. Loree*, 424 S.C. 24, 39, 817 S.E.2d 295, 302–03 (Ct. App. 2018) (“When a defamatory statement is actionable *per se*, the plaintiff need not prove general damages—as these damages are presumed—and the defendant is presumed to have acted with common law malice.”). Thus, Rabon’s noneconomic damages are those that the law presumes as a result of Defendants publicly accusing Rabon of committing felonies and being a racketeer in written correspondence published to third parties.

In addition to Rabon’s presumed damages, he also sought noneconomic damages for the amount he has suffered as a result of the Defamatory Letters. This Court finds that Rabon established his entitlement to an award of noneconomic damages by a preponderance of the evidence. When assessing an appropriate damage amount for Rabon’s noneconomic damages, the Court has considered the evidence of record demonstrating the following:

- The Defamatory Letters accused Rabon of committing serial felonies of a very serious nature;

- The Defamatory Letters accused Rabon of continuing to participate in a racketeering enterprise;
- The Defamatory Letters themselves acknowledge the harm the accusations contained in the same could inflict upon Rabon;
- Rabon introduced ample evidence establishing the importance and fragility of an attorney's reputation;
- Rabon introduced ample evidence establishing how an attorney's reputation impacts almost every facet of the practice of law;
- Rabon introduced ample evidence establishing how his professional legacy has been forever stained;
- Rabon introduced ample evidence as to the amount of work he undertook over a span of decades to build his reputation, law practice, and good will, which have now been irreparably harmed;
- The Lawyer Defendants have not, to date, ever identified any factual basis for the defamatory accusations leveled at Rabon and persist in refusing to do so;
- When questioned during their depositions, the Lawyer Defendants willfully obstructed Rabon's ability to learn what, if anything, supported such defamatory accusations;
- The Lawyer Defendants interposed frivolous privileges and immunities at their depositions in a concerted effort to deprive Rabon of a party's deposition testimony, which constitutes trial evidence under the SCRCP;

- When Defendants filed Federal Lawsuits against Rabon, they could not even plead sufficient facts to sustain a single predicate RICO claim, even though Rabon had already sued them for defamation;
- Rabon introduced ample evidence of the mental anguish, embarrassment, and anxiety Defendants' false accusations inflicted upon him;
- The Defamatory Letters were transmitted to over thirty individuals and entities, including Rabon's own colleagues and clients;
- The Defamatory Letters were immediately and extensively republished throughout the Greenville Bar;
- Prior to May of 2024, Rabon enjoyed a sterling reputation as a skilled and ethical practitioner of probate law;
- Rabon has had his familial relations adversely impacted including his role as husband, father, and grandfather;
- Rabon has been physically impacted by virtue of lost sleep, sadness, lost concentration, and malaise;
- Defendants' defamatory statements have impacted Rabon so greatly he has now lost his love of practicing law;
- Rabon and his wife now are constantly forced to wonder whether others view them as criminals, racketeers, gangsters, and felons;
- Rabon has experienced shame for nothing he has done;
- The Greenville Bar has lost a dutiful and thoughtful practitioner to the detriment of the Bar and community;

- Defendants could have lessened the reputational harms incurred by Rabon by recanting their statements or apologizing but have never done so;
- Over seventy percent of Rabon's law practice relied upon referrals, which are directly impacted by his reputation;
- Rabon's economic damages demonstrate the harms to his reputation are not theoretical and conjectural but actual yet impossible to quantify;
- It is inherently difficult to quantify the full harm to an individual's reputation.

The defense averred during cross examination that the Plaintiffs, individually and collectively, could not prove the damages were caused solely by the Defamatory Letters and not the actual lawsuits. The Court takes judicial notice that the RICO cases were dismissed in favor of Mr. Rabon. (See also Tr. Ex. 9, Tr. Ex. 10, Tr. Ex. 11.) Though the Defendants suggest that the dismissal of the federal cases minimizes the harm done to Rabon, the Court finds this assertion unjustified. Defendants created the harm when they circulated the Defamatory Letters. The harm has continued and has not ebbed notwithstanding the dismissal of the RICO cases in favor of Mr. Rabon.

Taking the foregoing into account, along with all evidence and testimony of record, the Court awards Rabon the sum of Seven Million Two Hundred Thousand Dollars (\$7,200,000.00) in general, noneconomic damages.

The last issue for consideration by this Court is the amount of punitive damages that should be awarded to Rabon. See *Hainer v. Am. Med. Int'l, Inc.*, 328 S.C. 128, 135, 492 S.E.2d 103, 107 n.8 (1997) ("We remind trial judges that in cases in which the issue of punitive damages is submitted to the jury, there must be clear and convincing evidence of actual malice to warrant such an award."). Here, the Court finds the evidence of record

establishes actual malice by clear and convincing evidence on the part of Thomason, Ballard, and Puriefoy. The Defamatory Letters were deliberately transmitted to multiple recipients without regard to third-party access or republication. Though Defendants accuse Rabon of committing multiple crimes, Rabon testified that no Defendant ever contacted him before publishing the Defamatory Letters to give him an opportunity to respond to the allegations. Defendants also acknowledge in the Defamatory Letters that they were aware of the impact their accusations would have upon Rabon and the other recipients. That announcement, their intentional choice to transmit the Defamatory Letters to multiple recipients, considered alongside the remarkable testimony from the depositions of the Lawyer Defendants, supports a finding that the Defamatory Letters were sent for an improper and malicious purpose. And, when given the opportunity to dispel their motives as improper and malicious by explaining the basis for sullyng Rabon's reputation, Defendants instead elected to engage in obstruction and a concerted coverup.

Relevant excerpts from the Lawyer Defendants' depositions are attached hereto for reference in **Appendix I**. Their refusal to answer even the most basic questions about the Defamatory Letters, or the grave accusations they chose to publish was grossly improper and reflected a troubling disregard for their obligations as officers of the Court. Such conduct not only impeded Rabon's ability to obtain relevant trial testimony for the damages hearings but also demonstrated a level of obstruction and evasiveness that is particularly unacceptable when committed by licensed attorneys who have taken an oath to uphold and not subvert the rule of law. *Hundley ex rel. Hundley v. Rite Aid of S.C., Inc.*, 339 S.C. 285, 316, 529 S.E.2d 45, 62 (Ct. App. 2000) (Finding the trial court's

consideration of “abuse and obstructionist” litigation tactics on the part of litigant a proper consideration in assessing punitive damages.) To make matters worse, the deposition testimony of the Lawyer Defendants, all of which mirrored one another in approach, circumstantially evidence a coordinated and common plan to thwart Plaintiffs from obtaining trial testimony in furtherance of an effort to cover-up the lack of any factual support for their defamatory accusations against Rabon.

The seriousness of this misconduct was only magnified at the damages hearing, where the Lawyer Defendants continued to posture as though the defamatory accusations might still have merit, despite having previously refused to answer basic questions about the very Defamatory Letters they authored and circulated. Their conduct following publication of the Defamatory Letters was nearly as egregious as the publication itself and strongly suggests an ongoing unwillingness to accept responsibility or accountability for their behavior.

In light of this pattern of obstruction, disregard for the truth, for discovery obligations, and for the integrity of judicial proceedings, in evaluating the appropriate measure of punitive damages, the deterrence factor carries particular weight. In this unique set of circumstances, where the actors are lawyers whose conduct exhibits disrespect for the fundamental rule of law, punitive damages are particularly appropriate and necessary to ensure that such behavior is not repeated, either by these Lawyer Defendants or by others. Therefore, this Court finds that Rabon has presented clear and convincing evidence of actual malice to warrant a punitive damages award of

\$3,350,000.00¹⁰ against the Lawyer Defendants, Devon Puriefoy, Kimberly Thomason, and Desa Ballard.

VI. CONCLUSION

Due to the Defendants' default, and the evidence presented at the damages hearing, it is hereby ORDERED that Rabon have judgment as follows:

- a. Economic damages in the principal amount of **\$1,180,180.29** against Defendants Kimberly Thomason, Devon Puriefoy, Desa Ballard, Mayra Michalski, and Margaret Ann Miniard, jointly and severally;
- b. Noneconomic damages in the principal amount of **\$7,200,000.00** against Defendants Kimberly Thomason, Devon Puriefoy, Desa Ballard, Mayra Michalski, and Margaret Ann Miniard, jointly and severally;
- c. Punitive damages are hereby ordered against Defendant Devon Puriefoy in the amount of **\$1,116,666.67**.
- d. Punitive damages are hereby ordered against Defendant Kimberly Thomason in the amount of **\$1,116,666.67**.
- e. Punitive damages are hereby ordered against Defendant Desa Ballard in the amount of **\$1,116,666.67**.

These amounts shall be subject to post-judgment interest at the rate of eleven and a half (11.50%) per annum.

¹⁰ The Court calculates the award of punitive damages as a percentage of the actual damages. The Court utilized a 40% rate to calculate the award. (40% of \$ 8,380,180.29 equals 3,352,072.12 and rounding down 3,350,000.00)

IT IS SO ORDERED.

Eugene C. Griffith, Jr.
Presiding Circuit Judge



Greenville Common Pleas

Case Caption: Roland Oneil Rabon Jr vs. KImberly Thomason , defendant, et al

Case Number: 2024CP2303236

Type: Order/Other

It is so ordered

Eugene C. Griffith, Jr. 2154