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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Court of Common Pleas

Eugene P. Warr, Jr., Circuit Court Judge

Appellate Case No. 2026-000211
Circuit Court Case No. 2025-CP-10-03621

Joel Ndunda,

Appellant,

v.

Brandi Pfeil, LP-A, Crisis Intervention Employee, individually and officially; Caitlyn McGarty, Crisis Intervention Employee, individually and officially; South Carolina Department of Behavioral and Developmental Disabilities, Office of Mental Health; and Charleston Dorchester Mental Health Center,

Defendants,

Of which Brandi Pfeil, Caitlin McGarty, and Charleston Dorchester Mental Health Center are the

Respondents.

RESPONDENTS' RETURN TO APPELLANT'S MOTION FOR SUMMARY REVERSAL AND VACATUR OF THE ORDER OF DISMISSAL ON THE GROUND OF EXTRINSIC FRAUD ON THE TRIBUNAL OR, IN THE ALTERNATIVE, TO SUPPLEMENT THE RECORD PURSUANT TO RULE 212, SCACR

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By and through their undersigned counsel, Defendants/Respondents Brandi Pfeil; Caitlin McGarty; and South Carolina Department of Behavioral and Developmental Disabilities, Office of Mental Health (the "Department") (collectively, "Respondents"),[1] submit this return to Appellant's Motion for Summary Reversal and Vacatur of the Order of Dismissal on the Ground of Extrinsic Fraud on the Tribunal or, in the Alternative, to Supplement the Record Pursuant to Rule 212, SCACR (the "Subject Motion"). Hereinafter, the part of the Subject Motion that seeks summary reversal and vacatur of the order of dismissal is referred to as the "Request for Reversal," and the part that seeks to supplement the record is referred to as the "Request to Supplement."

BACKGROUND

Chapter 17 of Title 44 of the South Carolina Code of Laws addresses the care and commitment of mentally ill persons, and Article 3 of that chapter addresses the custody and admission of persons requiring immediate care.

Article 3 includes S.C. Code Ann. § 44-17-410. In its three subsections (namely, § 44-17-410(1), (2), and (3)), § 44-17-410 sets forth a procedure whereby a person who is believed to be mentally ill may be involuntarily committed to a healthcare facility. This procedure includes, in subsection (2), the requirement that the person be examined by at least one licensed physician and that the physician certify that they have examined the person and that they (the physician) are "of the opinion that the person is mentally ill and because of this condition is likely to cause harm to

[1] As stated in the order on appeal (**Exhibit 1** [Order Granting Defs.' Mot. to Dismiss Pl.'s Compl. With Prejudice] p. 1), Respondents, i.e., Pfeil, McGarty, and the Department, are the correct names for the defendants in this case, and as such, they are the correct names for the respondents in this appeal. Charleston Dorchester Mental Health Center is not a separate legal entity, but rather one of the Department's facilities, and it is improperly named as a defendant in this case and a respondent in this appeal.

himself through neglect, inability to care for himself, or personal injury, or otherwise, or to others if not immediately hospitalized." § 44-17-410(2).

Article 3 also includes S.C. Code Ann. § 44-17-430, which provides for an alternative procedure for seeking commitment pursuant to § 44-17-410 whereby a person who is believed to be mentally ill may be involuntarily committed where the person cannot be examined by at least one licensed physician pursuant to § 44-17-410(2). Under § 44-17-430, the petitioner seeking commitment must "execute an affidavit stating a belief that the individual is mentally ill and because of this condition likely to cause serious harm if not hospitalized, the ground for this belief and that the usual procedure for examination [in § 44-17-410(2)] cannot be followed and the reason why." Then, upon presentment of the affidavit, "the judge of probate for the county in which the individual is present may issue an order requiring a state or local law enforcement officer to take the individual into custody for a period not exceeding twenty-four hours." § 44-17-430. A person detained under this procedure "must be examined by at least one licensed physician as provided for in Section 44-17-410(2)." § 44-17-430. "If within the twenty-four hours the person in custody is not examined by a licensed physician or, if upon examination the physician does not execute the certification provided for in Section 44-17-410(2), the proceedings must be terminated and the individual in custody must be released immediately." § 44-17-430. "Otherwise, proceedings must be held pursuant to Section 44-17-410(3)." § 44-17-430.

Essentially, § 44-17-430 provides for a two-part alternative for accomplishing subsections (1) and (2) of § 44-17-410. Part I consists of the execution of the required affidavit, the presentation of the affidavit to the probate judge, and the probate judge's issuance (or not) of an order requiring the person believed to be mentally ill to be taken into custody for up to 24 hours. If the probate judge declines to issue the order, Part II is moot. If, however, the probate judge issues the order, the

person is taken into custody and the process continues to Part II, which consists of the person's examination by a licensed physician and the physician's execution (or not) of the certification provided for in § 44-17-410(2) or the expiration of 24-hour period without the person being examined. If the physician does not execute the certification or the 24-hour period simply ends without the person being examined, the person must be released immediately. If, however, the physician issues the certification, the matter proceeds pursuant to § 44-17-410(3).

According to Plaintiff/Appellant, Joel Ndunda ("Plaintiff"), and his mother and father (as set forth in affidavits Plaintiff filed), the following basic sequence of events occurred on May 1, 2025:

- Following Plaintiff's receipt of a hate-crime video depicting graphic violence against a Black man,[2] Plaintiff's mother and father visited the Department's Charleston Dorchester Mental Health Center facility where they discussed their concerns about Plaintiff's "emotional distress"[3] / "emotional state"[4] with Department clinician Pfeil. (**Ex. 3** ¶¶ 4–5; **Ex. 4** ¶¶ 3, 5.)
- During their meeting with Pfeil, Pfeil informed Plaintiff's mother and father that the Department had a mobile crisis team that could, if Plaintiff's mother and father wished, come "assess whether [Plaintiff] was in crisis." (**Ex. 3** ¶ 4 (original bold print omitted); *see also* **Ex. 4** ¶ 3.)
- After leaving the facility, Plaintiff's mother and father called the facility to confirm that they wished for the mobile crisis team to assess Plaintiff. (**Ex. 3** ¶ 4; **Ex. 4** ¶ 4.)

[2] (**Exhibit 2** [Compl.] ¶¶ 1, 7; *id.* at Ex. A; **Exhibit 3** [Aff. of Dr. Mutindi Ndunda] ¶¶ 2–3; **Exhibit 4** [Aff. of Thomas Ndunda Ndambuki] ¶¶ 2–3.)

[3] (**Ex. 3** ¶ 3.)

[4] (**Ex. 4** ¶ 3.)

- The mobile crisis team (comprised of Pfeil, her fellow Department clinician McGarty, and a police officer) arrived at the family home that afternoon at about 5:30 p.m. (**Ex. 3** ¶ 6; **Ex. 4** ¶ 6.)
- Upon assessing Plaintiff, Pfeil and McCarty wrongly caused Plaintiff to be taken into police custody and transported to MUSC for further examination before he was released the next day. (**Ex. 2** ¶¶ 1–14; **Ex. 3** ¶¶ 7–19; **Ex. 4** ¶¶ 7–17.)

Plaintiff filed this action in the Charleston County Court of Common Pleas on June 24, 2025, asserting claims against Respondents for false imprisonment, malicious prosecution, defamation and false light, intentional infliction of emotional distress, civil conspiracy, and invasion of privacy: public disclosure of private facts. (**Ex. 2**.)

After Respondents successfully moved to dismiss the action,[5] Plaintiff took this appeal.

After he had filed/served his initial appellant's brief on May 22, 2026, but before Respondents had filed their initial brief,[6] Plaintiff filed/served the Subject Motion on July 6, 2026.

This return follows.

ARGUMENT

I. The Request for Reversal should be denied because "summary reversal and vacatur" of an appealed order is not allowed under the South Carolina Appellate Court Rules.

The Request for Reversal should be denied because it is an invalid request. An appealed order comes to the appellate court with a presumption of correctness, and the burden is on the appellant to demonstrate reversible error. *See McCall v. IKON*, 380 S.C. 649, 659–60, 670 S.E.2d 695, 701 (Ct. App. 2008). The South Carolina Appellate Court Rules provide a

[5] (**Ex. 1**.)

[6] The initial briefing process remains incomplete. Respondents have not yet filed/served their initial brief; nor, of course, has Plaintiff filed any initial reply brief.

procedure whereby an appellant may attempt to carry their burden of demonstrating reversible error. This procedure is, of course, well known, and in short, it involves the parties' submission of briefs back in forth, the appellant's submission of the record on appeal, and the appellate court's decision of the matter, often, though not necessarily, without oral argument. There is simply no provision in the rules for Plaintiff's attempt to lessen his burden and short circuit this procedure in favor of one that summarily affords him relief.

While the basis of Plaintiff's motion (supposed fraud, misrepresentation, and/or other misconduct on the part of Respondents) is categorically denied, the proper procedural vehicle to seek relief from an order on the basis of fraud, misrepresentation, or other misconduct of an adverse party is a motion in the circuit court pursuant to Rule 60(b)(3), SCRCP, and where, as here, an appeal is pending, making such a motion requires first obtaining leave of this Court.

II. Even assuming, *arguendo*, the Request for Reversal should not be denied on the basis of Argument I above, the Request for Reversal should be denied because it is without merit.

The essential premise of the Subject Motion is that Respondents mispresented the existence of the affidavit and probate court order required in Part I of the § 44-17-430 procedure, and the basis on which Plaintiff asserts that Respondents mispresented the fact that the affidavit and order existed in the *past* (i.e., at the time Plaintiff was taken into custody on May 1, 2025) is that these documents are (as yet) unable to be located in the *present*.

As an initial matter, the fact that these documents cannot be located *now* does not prove that they did not exist *then*. Moreover, Plaintiff's complaint does not allege that these documents were absent from his detention on May 1, 2025. (**Ex. 2**.) In other words, the way Plaintiff framed his case placed the existence of the documents beyond dispute.

Still, in any event, and even though Respondents are not the custodians of the documents at issue—as the documents, which the Charleston Police Department (the "CPD") refers to as "white papers,"[7] are provided to the law enforcement officer who takes the person believed to be mentally ill into custody and are then provided to the medical facility[8]—Respondents have obtained documentary proof (from an independent source, the CPD) that the documents existed at the time Plaintiff was taken into custody on May 1, 2025, namely, the attached affidavit of CPD Lieutenant Kelly Freshman (**Ex. 5**) and CPD Field Contact documentation (**Exhibit 6** (yellow highlighting added)).

III. Respondents do not object to the record on appeal including Exhibits 5 and 6 to this return.

Regarding the Request to Supplement, Plaintiff asks the Court to require Respondents to produce the affidavit and order, presumably so they can be included in the record on appeal. While, as explained above, Respondents are not the custodians of the affidavit and order and do not possess them, they do not object to the proof of their existence at the time of Plaintiff's detention attached hereto (**Exhibits 5** and **6**) being included in the record on appeal.

CONCLUSION

For the foregoing reasons, the Subject Motion should be denied, except insofar as it pertains to **Exhibits 5** and **6** to this return being included in the record on appeal.

<SIGNED ON THE FOLLOWING PAGE>

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7 (**Exhibit 5** [Aff. of Kelly Freshman] ¶ 3.)

8 (**Ex. 5** ¶ 8.)

Respectfully submitted,

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Charleston, South Carolina

August 14, 2026

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	NINTH JUDICIAL CIRCUIT
)	
JOEL NDUNDA,)	CASE NO. 2025-CP-10-3621
)	
PLAINTIFF,)	EXHIBIT 1
)	
vs.)	**ORDER GRANTING DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT WITH PREJUDICE**
BRANDI PFEIL, LP-A, CRISIS INTERVENTION EMPLOYEE, INDIVIDUALLY AND OFFICIALLY; C. MCGARTY, CRISIS INTERVENTION EMPLOYEE, INDIVIDUALLY AND OFFICIALLY; AND CHARLESTON DORCHESTER MENTAL HEALTH CENTER,)	
)	
DEFENDANTS,)	
)	

This matter came before the Court upon Defendants, the South Carolina Department of Behavioral Health and Developmental Disabilities, Brandi Pfiel, and Caitlin McGarty's (hereinafter "Defendants", "BDHH", "Ms. Pfeil", and/or "Ms. McGarty")[1] Motion to Dismiss Plaintiff Joel Nduda's "(hereinafter "Plaintiff") Complaint pursuant to Rule 12(b)(6) of the *South Carolina Rules of Civil Procedure* on the grounds that Plaintiff's Complaint fails to state a claim upon which relief can be granted.

On October 9, 2025, the Court heard oral arguments on Defendants' Motion to Dismiss.[2] During the hearing, the Court gave counsel for Defendants and Plaintiff (*pro se*) a full and fair opportunity to proffer the factual allegations and legal issues that they deemed important. The

[1] The Defendants are improperly named in the Complaint. The proper identity of Defendants is set forth herein as The South Carolina Department of Behavioral Health and Developmental Disabilities, Brandi Pfeil, and Caitlin McGarty.

[2] Defendants' Motion to Strike Punitive Damages was also before the Court at this hearing. Here, because the Court grants Defendants' Motion to Dismiss, a ruling on Defendants' Motion to Strike Punitive Damages is unnecessary.

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Court further allowed Plaintiff, at his request, to file a supplemental (second) memorandum in opposition to Defendants' Motion to Dismiss to further respond to the arguments raised by Defendants in their Memorandum in Support and oral argument. The Court has reviewed all of Plaintiff's filings including his Complaint, two Memorandums in Opposition, and the attached exhibits to the same, and the Defendants' Motion and Memorandum in Support, and this matter is now ripe for resolution.

Upon consideration of all parties' arguments at the hearing and the pleadings before the Court, including all applicable memoranda, this Court hereby **GRANTS** Defendants' Motion to Dismiss Plaintiff's Compliant, **with prejudice**.

BACKGROUND

This case arises out of Plaintiff's mental health evaluation by BHDD Office of Mental Health's Mobile Crisis Unit clinicians, Ms. Pfeil and Ms. McGarty. Plaintiff alleges that the clinical findings in his evaluation were fabricated in order to procure his involuntary, court-ordered, detention to MUSC Hospital for further evaluation.

The involuntary commitment process at issue here is a two-step process involving the probate court.[3] The first step, or "Part I", involves a mental health assessment/evaluation by mental health clinicians, such as those with BHDD, of the individual at issue. If the mental health clinicians determine the individual meets the threshold for requiring further advanced care at the hospital, the clinicians inform the probate court of their findings. If the probate court agrees with the assessment, the probate court issues an Order of Detention – allowing law enforcement to transport the individual, involuntarily, to the hospital for further evaluation. Plaintiff's Complaint admits he was taken involuntarily to the hospital following his mental health assessment (Part I)

[3] *See generally* S.C. Code Ann §44-17-410 *et. seq*.

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by Defendants.[4] Plaintiff does not allege that his detention to MUSC was done without an Order of Detention from the probate court.

Part II of the involuntary commitment process involves assessment of the individual at the hospital by the hospital's clinicians. This is a separate and distinct determination from Part I. Part II concerns whether further commitment, such as institutionalization or extended hospitalization, is required. Plaintiff's allegations against the named Defendants only concern Part I – BHDD's assessment and Plaintiff's involuntary detention to MUSC. Plaintiff's allegations concerning events at MUSC are not within this Court's purview as the Complaint concedes that Defendants took no part in the events at MUSC.[5]

Plaintiff's Allegations against Defendants

Plaintiff's Complaint alleges that on or about May 1, 2025, Ms. Pfeil and Ms. McGarty performed the Part I assessment of his mental health.[6] Plaintiff's Complaint takes issue with certain findings in this evaluation including that Plaintiff was "homicidal", "suicidal", "agitated", "skipped meals", and posed immediate danger (to himself or others).[7] Plaintiff alleges that these statements were "knowingly false" because he disagrees with and disputes the findings.[8] Specifically, Plaintiff contends the evaluation's findings were inconsistent with his demeanor during the evaluation, certain clinical "checkbox" screening answers and/or impressions, and law enforcement parking protocols.[9]

Plaintiff further argues that he believed the Defendants were there to investigate his allegations of an alleged cybercrime, and that the Defendants' findings in his mental health

[4] Plaintiff's Compl. ¶ 10.
[5] Plaintiff's Compl. ¶¶ 10-13 (alleging that MUSC staff, not Defendants, evaluated Plaintiff at the hospital).
[6] Plaintiff's Compl. ¶ 1.
[7] Plaintiff's Compl. ¶ 2.
[8] *See* Plaintiff's Compl. ¶ 7 alleging that Defendants statement concerning Plaintiff's history of "delusional statements" was a "lie" because he strongly disputes that the statements were delusional.
[9] Plaintiff's Compl. ¶ 3; *See generally*, Plaintiff's supplemental (2nd) Memorandum in Opposition to Defendants' Motion to Dismiss.

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evaluation were "fabricated" in retaliation for Plaintiff exposing the Defendants lack of cybersecurity expertise and/or due to Plaintiff threatening to sue the alleged cybercriminals.

Plaintiff alleges that following his mental health evaluation he was "publicly detained" by law enforcement to be evaluated further at MUSC Emergency Room (ER).[10] Plaintiff alleges that law enforcement detained him in front of his neighbors in order to embarrass him.

Based on these allegations, Plaintiff brings six (6) tort claims against the Defendants: (1) false imprisonment, (2) abuse of process, (3) defamation, (4) intentional infliction of emotional distress ("IIED"), (5) civil conspiracy, and (6) invasion of privacy: public disclosure of private facts.[11]

STANDARD OF REVIEW

"A trial judge in the civil setting may dismiss a claim when the defendant demonstrates the plaintiff has failed 'to state facts sufficient to constitute a cause of action' in the pleadings filed with the court."[12] "The question to be considered is whether, in the light most favorable to the plaintiff, the pleadings articulate any valid claim for relief."[13] When ruling on a motion to dismiss pursuant to Rule 12(b)(6), SCRCP, the court should consider only the allegations set forth on the face of the plaintiff's complaint.[14] A court further views the content of the pleadings in light of the general pleading rules and in the light most favorable to the plaintiff.[15]

[10] Plaintiff's Compl. ¶¶ 4, 9, 10.
[11] *See generally*, Plaintiff's Compl.
[12] *Williams v. Condon*, 347 S.C. 227, 232–33, 553 S.E.2d 496, 499 (Ct. App. 2001) (citing Rule 12(b)(6), SCRCP); *Flateau v. Harrelson*, 335 S.C. 197, 202, 584 S.E.2d 413, 415 (Ct. App. 2003) (affirming the dismissal of the complaint) (citing *Baird v. Charleston Cnty.*, 333 S.C. 519, 511 S.E.2d 69 (1999)).
[13] *Williams*, 347 S.C. at 333, 553 S.E.2d at 499.
[14] *Baird v. Charleston Cnty.*, 511 S.E.2d 69 (1999); *Williams*, 347 S.C. at 333, 553 S.E.2d at 499.
[15] *Woodell by Allen v. Marion Sch. Dist. One*, 414 S.E.2d 794 (S.C. Ct. App. 1992); *Plyler v. Burns*, Op. No. 26335 (S.C. Sup. Ct. filed June 11, 2007) (holding the trial court properly granted the defendant's motion to dismiss).

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Rule 8(a)(2), SCRCP, provides that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to the relief." Although the court must liberally construe a *pro se* pleading, it remains that if the facts and inferences reasonably deducible from them show that the plaintiff could not prevail on any theory of the case, the motion to dismiss must be granted.[16] The mandated liberal construction afforded to *pro se* pleadings means that if the court can *reasonably* read the pleadings to state a valid claim on which the plaintiff could prevail, it should do so; however, the court may not rewrite a complaint to include claims that were never presented, construct the plaintiff's legal arguments for him, or conjure up questions never squarely presented to the court.[17]

FINDINGS AND CONCLUSIONS OF LAW

I. This Court finds that the South Carolina Tort Claims Act bars all Plaintiff's claims against all Defendants in this matter.

A. Claims against The South Carolina Department of Behavioral Health and Developmental Disabilities (BHDD).

In South Carolina**,** tort claims against government entities and government employees are governed by the South Carolina Tort Claims Act ("SCTCA" or "Act"). Plaintiff brings tort claims against BHDD, a government entity, and its employees, Ms. Pfeil and Ms. McGarty.[18] Plaintiff's claims are therefore subject to the SCTCA.

The SCTCA operates as a limited waiver of sovereign immunity. The SCTCA specifically enumerates exceptions to that limited wavier. In other words, the Act identifies instances where

[16] *Gray v. State Farm Auto Ins. Co.*, 491 S.E.2d 272 (S.C. Ct. App. 1997) (The Court must grant a motion to dismiss "if the facts and inferences reasonably deducible from them show that the plaintiff could not prevail on any theory of the case.").
[17] *Ridley v. S.C. Dep't of Mental Health*, 2017 WL 3924003, No. 2016-CP-40-02528 (S.C. Com. Pl. June 1, 2017) (granting the defendant government entity's motion to dismiss for failure to state a claim) (citing, in part, *Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985)).
[18] S.C. Code Ann. §15-78-30(a) and (d).

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sovereign immunity still applies, and government entities and their employees cannot be held liable. The exceptions to the limited waiver of sovereign immunity must be liberally construed in favor of limiting the liability of the State.[19] Defendants argue that two such exceptions apply in this case: (1) the quasi-judicial exception and (2) the discretionary function exception.[20] This Court agrees.

i. This Court finds that the quasi-judicial immunity applies to Defendants.

Defendants argue that their mental health evaluation of Plaintiff and recommendation to the probate court that Plaintiff be involuntarily detained for further evaluation at MUSC was a quasi-judicial act as it was undisputably part of a court process. This Court agrees with Defendants.

South Carolina trial courts have consistently dismissed tort claims under this exception where the torts alleged involved court processes.[21] Here, the Defendants presented their clinical findings and recommendation to the probate court and the probate court ordered that Plaintiff be involuntarily detained for further evaluation at MUSC. Even taking the Plaintiff's allegations as true that Defendants' clinical judgment was poor and Defendants' clinical findings were wrong and inconsistent, Plaintiff cannot overcome that this was part of a court process and that the immunity applies.

Moreover, this Court applies the quasi-judicial immunity here as part of its gatekeeping responsibility. Protecting mental health clinicians from litigation arising solely from a patient's

[19] *Wright v. S.C. Dep't of Transportation*, 437 S.C. 184, 198, 877 S.E.2d 788, 795 (Ct. App. 2022).
[20] S.C. Code Ann §15-78-60(1), (5).
[21] *See e.g. Dizzley v. Bailey*, No. 2024-CP-22-00105, 2024 WL 4521281, at *6 (S.C.Com.Pl. May 08, 2024)(granting motion to dismiss to solicitors on quasi-judicial immunity grounds for claims in connection with their prosecution of criminal case(s)); *McCauley v. Wickensimer*, No. 2017CP2308068, 2018 WL 8193798, at *1 (S.C.Com.Pl. Mar. 26, 2018) (granting clerk of court's motion to dismiss in part on quasi-judicial immunity grounds on its alleged failure to follow proper wage garnishment procedures relating to Plaintiff); *Erwin v. South Carolina Dept. of Probation*, No. 2016CP4602414, 2016 WL 10957857, at *4 (S.C.Com.Pl. Dec. 07, 2016) (dismissing Plaintiff's tort claims against State and Department of Probation and Parole on the grounds that the quasi-judicial applies).

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disagreement with an evaluation or distress over being involuntarily hospitalized, allows these health care workers to make difficult decisions with impartiality.[22] It is an understandable reaction to be upset or "disgruntled" by an adverse decision resulting in involuntary hospitalization. It is incumbent upon this Court to protect the integrity of the mental health assessment process by shielding the assessors from liability in tort when their actions are part of a court process. Their actions benefit the safety of the general public.

ii. This Court finds that the discretionary immunity applies to Defendants.

Defendants also argue that the discretionary immunity applies. This Court agrees with Defendants. The SCTCA includes an additional exception to the limited waiver of sovereign immunity for "the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee."[23] While discretionary immunity is an affirmative defense that usually requires proof that the government "weighed competing considerations" and "made a conscious choice", South Carolina Courts have granted dismissals of tort claims pursuant to this exception where the exercise of discretion by the government was undisputed.[24] This Court finds that the Defendants exercise of discretion was undisputed here based on Plaintiff's admissions in his Complaint.

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[22] *See Fleming v. Asbill*, 326 S.C. 49, 56, 483 S.E.2d 751, 755 (1997)(*citing Short v. Short*, 730 F.Supp, 1037, 1039 (D.Colo. 1990)) (extending the quasi-judicial immunity to GALs in order to protect GALs freedom to make professional judgments in the best interests of the child without the fear of litigation from disgruntled parents as that fear could compromise the GALs ability to make the appropriate determination).

[23] S.C. Code Ann §15-78-60(5).

[24] *See Ridley v. South Carolina Dept. of Mental Health*, No. 2016CP4002528, 2017 WL 3924003, at *6 (S.C.Com.Pl. June 01, 2017) (dismissing tort claims of involuntary committed individual on discretionary immunity grounds because defendant's actions in providing affidavits to court concerning plaintiff was undisputably the exercise of professional accepted discretion); *see also USS Clamagore SS-343 Restoration and Maintenance Ass'n, Inc. v. Patriots Point Development Authority*, No. 2019-CP-10-1950, 2020 WL 1038741, at *13 (S.C.Com.Pl. Mar. 02, 2020) (granting motion to dismiss, in part, on discretionary immunity because it "cannot be disputed" that the PPDA's decision to convert the Clamagore into an artificial reef was a "discretionary decision.").

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Plaintiff's Complaint admits that the individual Defendants interviewed him and assessed his behavior and demeanor.[25] Plaintiff's Complaint admits that Defendants also considered (but chose to lend less weight to) "collateral documentation" as well.[26] Plaintiff's memoranda and attachments further provide that Defendants interviewed Plaintiff's mother, father, and girlfriend. Even construing the Plaintiff's allegations as true, that Defendants used their discretion poorly and reached the wrong conclusion, this Court finds that Defendants exercised discretion. Therefore, this Court finds that the discretionary immunity applies and dismisses all of Plaintiff's claims with prejudice for this additional, separate reason.

B. Claims as to the individual Defendants, Ms. Pfeil and Ms. McGarty

Plaintiff's Complaint alleges that the individual Defendants, Ms. Pfeil and Ms. McGarty, are liable in their personal capacities, not just their official capacities. The SCTCA is clear that individuals acting within the scope of their official duties as government employees are exempt from personal liability.[27] The allegations in Plaintiff's Compliant clearly provide that Ms. McGarty and Ms. Pfeil were working in their official capacities. Plaintiff's Complaint admits that the individual Defendants assessed him, prepared a report and notes concerning their assessment, and made a recommendation ("staffed") that he be committed to MUSC for further evaluation.[28] This Court finds that the individual Defendants were working in their official capacities.

Plaintiff's sole argument concerning the SCTCA for both BHDD and the individual Defendants in their personal capacities, is that the Defendants acted with "actual malice." For "actual malice", the Plaintiff has to sufficiently allege that the Defendants actions were motivated

[25] Plaintiff's Compl. ¶¶ 2-3.
[26] Plaintiff's Compl. ¶¶ 2-3.
[27] *Flateau v. Harrelson*, 355 S.C. 197, 206, 584 S.E.2d 413, 417 (Ct. App. 2003) (affirming dismissal of tort claims against individual commissioners of South Carolina Commission for the Blind because the actions were done within the scope of their official duties).
[28] Plaintiff's Compl. ¶¶ 1, 2, 3, 9 and 10.

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by personal reasons rather than occupational reasons.[29] Plaintiff argues that the following alleged facts show that Defendants were motivated by personal reasons: (1) Defendants' embarrassment over lack of cybersecurity experience, (2) Defendants' misconstruing of medical terms, (3) inconsistencies between answers to screening "checkbox" questions and the body of the evaluation, (4) Defendants' misconstruing of Plaintiff's statements, and (5) Defendants' "non-existent" parking protocols.

Even accepting all these allegations as true, Plaintiff does not sufficiently or plausibly allege actual malice. All of the above actions identified by Plaintiff were conducted *within the context of the Plaintiff's mental health evaluation*. At best, Plaintiff's allegations show that Defendants utilized poor professional judgment and/or exhibited professional insecurity when carrying out their occupational duties because they were allegedly unprepared (for cybercrime), dismissive of his complaints, inconsistent, and overzealous. This is readily distinguishable from the personal animus required to sufficiently allege actual malice.

The Court further finds that Plaintiff's Complaint is devoid of any allegations that Defendants were motivated by a pre-existing, purely personal relationship or grudge. The Complaint does not allege that Ms. Pfeil or Ms. McGarty knew the Plaintiff prior to the evaluation on May 1, 2025. It does not allege that they had a prior professional history with Plaintiff – such as a previous antagonistic evaluation. The Complaint does not allege that Ms. Pfeil and Ms. McGarty stood to gain anything personally, such as a financial gain, from the evaluation. Instead, every allegation occurred entirely within the confines of a single, professional, and official,

[29] *Frazier v. Badger*, 361 S.C. 94, 103, 603 S.E.2d 587, 591 (2004) (finding that the government employee's motivation was "actual malice" because his actions were motivated by personal reasons – the plaintiff's rejection of his sexual advances, rather than occupational reasons.).

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encounter. This Court therefore finds that the SCTCA applies to the Defendants and dismisses Plaintiff's claims against all Defendants.

II. Dismissal is required on each of the tort claims irrespective of the SCTCA

Given this Court's ruling that the SCTCA applies to the Defendants, including the above-enumerated exceptions, this Court is not required to address Plaintiff's tort claims further as each of his claims must be dismissed under the Act. Nonetheless, this Court further finds that Plaintiff's tort claims should be dismissed irrespective of the SCTCA. The Court's additional findings are as follows:

A. False Imprisonment

To state a claim for false imprisonment, the Plaintiff must allege sufficient facts showing that (1) the defendant restrained him, (2) the restraint was intentional, and (3) the restraint was unlawful.[30] Concerning the "unlawful" element, the South Carolina Supreme Court has held,

> A person confined pursuant to an authorized mental health commitment proceeding or process may not recover damages in a false imprisonment action. In accordance with the general rule dealing with confinement under process, ***even where the order of commitment is erroneously made, but is valid on its face and issued by a court of competent jurisdiction, the detention is not false imprisonment.***[31]

Here, Plaintiff has not alleged that he was involuntarily detained and taken to MUSC without an Order of Detention. Instead, he claims this Order was erroneously made. Even construing Plaintiff's allegations as true that the Order was erroneously made, Plaintiff has failed to state a claim for false imprisonment.

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[30] *Argoe v. Three Rivers Behav. Health, L.L.C.*, 392 S.C. 462, 473, 710 S.E.2d 67, 73 (2011) (*citing Jones by Robinson v. Winn-Dixie Greenville, Inc*., 318 S.C. 171, 175, 456 S.E.2d 429, 432 (Ct. App. 1995)).
[31] *Argoe v. Three Rivers Behav. Health, L.L.C.*, 392 S.C. 462, 473, 710 S.E.2d 67, 73 (2011) (Emphasis Added).

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Plaintiff attempts to circumvent the controlling precedent of *Argoe* by arguing that the Order of Detention was not merely "erroneous" but was procured by "fraud." All of Plaintiff's allegations go towards the merits of the commitment decision and the quality of the evidence presented concerning Plaintiff's condition (and his alleged lack thereof), and not the validity of the judicial process or the court's jurisdiction. Plaintiff's argument is just a collateral attack on the factual findings and decision of the probate court, for which a false imprisonment claim is not the proper vehicle. Here, there was a facially valid order from the probate court. Therefore, Plaintiff's claim for false imprisonment must be dismissed.

B. Abuse of Process

"There are two essential elements required for an abuse of process action: (1) an ulterior purpose, and (2) a willful act in the use of the process not proper in the regular conduct of the proceedings."[32] The Supreme Court of South Carolina has found that "there is no liability [for abuse of process] where the defendant has done nothing more than carry out the process to its authorized conclusion, even with bad intentions."[33] "The ulterior purpose allegation must be accompanied by an allegation that the process was misused by the undertaking of the alleged act, not for the purpose for which it was intended but for the primary purpose of achieving a collateral aim."[34] "An allegation of an ulterior purpose or 'bad motive,' standing alone, is insufficient to assert a claim for abuse of process."[35]

Defendants argue that Plaintiff has failed to sufficiently allege the second element of abuse of process – a willful act in the use of the process not proper in the regular conduct of the

[32] *Broadmoor Apartments of Charleston v. Horwitz*, 306 S.C. 482, 486, 413 S.E.2d 9, 11 (1991).
[33] *Cisson v. Pickens Sav. & Loan Ass'n*, 258 S.C. 37, 46, 186 S.E.2d 822, 826 (1972).
[34] *Food Lion, Inc. v. United Food & Com. Workers Int'l Union*, 351 S.C. 65, 74, 567 S.E.2d 251, 255 (Ct. App. 2002)
[35] *Id.*

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proceeding. Defendants argue that even accepting Plaintiff's alleged ulterior purpose as true – that Defendants fabricated the evaluation due to embarrassment over their lack of cybersecurity expertise or out of fear that Plaintiff would "sue" the cybercriminals responsible, the involuntary commitment process was carried out to its authorized objective – a decision to detain Plaintiff for further evaluation at the hospital.

Plaintiff's Complaint is devoid of any allegations of a willful act. For example, there are no allegations that Defendants offered to "stop" or "restrain" the commitment process if Plaintiff agreed not to sue the alleged cybercrime perpetrators. There are no allegations that Defendants used the commitment process to extort Plaintiff in some manner – such as for money or some other illicit gain.[36] The lack of an alleged willful act is dispositive of this claim. Therefore, this Court grants Defendants' motion as to Plaintiff's abuse of process claim for this additional reason.

C. Defamation

Plaintiff's Complaint alleges that Defendants defamed him by including false statements in his mental health evaluation and publishing those false statements to "police, medical personnel, and third-parties."[37] Defendants argue that qualified privilege applies as the alleged defamatory statements were made within the context of the involuntary commitment process (Part I), and in effectuating a lawful order of the probate court.[38] This Court agrees that qualified privilege applies.[39]

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[36] *Huggins v. Winn-Dixie Greenville, Inc.*, 249 S.C. 206, 212, 153 S.E.2d 693, 696 (1967) (finding that using the threat of a criminal arrest warrant to extort the payment of money constituted the necessary "willful act in the use of the process not proper in the regular conduct of the proceeding").

[37] Plaintiff's Compl. "Count Three."

[38] *Argoe v. Three Rivers Behav. Health, L.L.C.*, 392 S.C. 462, 475, 710 S.E.2d 67, 74 (2011); S.C. Code § 44-22-90(A)(2) & (4) and §44-22-100(A)(2), (4), and (5).

[39] *See Blackwell, Jr. v. Miller*, No. 2017CP2303754, 2017 WL 10795459, at *4 (S.C.Com.Pl. Nov. 08, 2017) (Court dismissed defamation claim wherein *pro se* plaintiff alleged defendant ex-wife defamed him to police officer. Court held qualified privilege protected the alleged defamatory statements because they

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Plaintiff contends that Defendants' statements were made with actual malice and therefore Defendants are not afforded the protection of qualified privilege. Plaintiff alleges that Defendants knew its statements concerning Plaintiff being homicidal and/or dangerous were false because their answers to screening questions (as distinguished from the body of the findings), actions in parking far away from the Plaintiff's home, and actions in leaving Plaintiff unattended were inconsistent with danger. However, these allegations, accepted as true for the purpose of this motion, amount only to a claim that the Defendants' professional procedures were inconsistent and their judgment was erroneous. Plaintiff fails to plausibly allege knowledge of the statement's falsity or reckless disregard for the truth as required to establish actual malice.[40]

Plaintiff further argues that Defendants "admitted" in their argument to the Court that they made these alleged defamatory statements to "neighbors" destroying the qualified privilege. Defendants made no such admission. Defendants' memorandum speculates that the "third-parties" identified in Plaintiff's Complaint may have been Plaintiff's neighbors given Plaintiff's complaints concerning his neighbors and his distress over being detained "in front of neighbors."[41] Plaintiff has not alleged receipt of any of the alleged defamatory statements by any third-party who is not a part of the involuntary commitment process – law enforcement, probate court, hospital. Likewise, Plaintiff has not alleged any facts that would make such an alleged third-party disclosure plausible. Therefore, Plaintiff has failed to state a claim for defamation and the claim must be dismissed.

D. Intentional Infliction of Emotional Distress

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were made in good faith to a police officer with the common interest of (1) protecting plaintiff from committing suicide and (2) addressing plaintiff stalking of defendant).

[40] *Tegeler v. Collier*, No. 2020-CP-23-01213, 2020 WL 12698653, at *4 (S.C.Com.Pl. Sep. 08, 2020) (granting judgment on pleadings to defendant in defamation case on qualified privilege grounds were plaintiff failed to plead facts sufficient to meet the standard that the alleged defamatory statement was made with actual malice.).

[41] Plaintiff's Compl. ¶ 14.

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To state a claim for IIED, Plaintiff must allege facts showing that (1) the defendant intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from defendant's conduct; (2) the conduct was so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community; (3) defendant's actions caused the plaintiff's emotional distress; and (4) the emotional distress suffered by the plaintiff was severe so that no reasonable man could be expected to endure it.[42] For IIED claims, "The Court plays a significant gatekeeping role in order to 'prevent claims for intentional infliction of emotional distress from becoming a panacea for wounded feelings rather than reprehensible conduct.'"[43]

Defendants argue that Plaintiff's allegation that Defendants fabricated his mental health evaluation in retaliation for him threatening to sue the perpetrators of the alleged cybercrimes he believed Defendants were there to investigate is insufficient to meet the threshold for "extreme and outrageous" conduct. "Contrarily, Plaintiff argues that the allegations meet the threshold. This Court agrees with Defendants.

The bar for "extreme and outrageous" conduct is exceptionally high. As noted by the Court of Appeals in *Corder v. Champion Rd. Mach. Int'l Corp.*,

> [it] has not been enough that the defendant has acted with an intent which is tortious or even criminal, or that he has intended to inflict emotional distress, or even that his conduct has been characterized by "malice," or a degree of aggravation which would entitle the plaintiff to punitive damages for another tort. Liability has been found only where the conduct has been so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of

[42] *Hansson v. Scalise Builders of S.C.*, 374 S.C. 352, 356, 650 S.E.2d 68, 70 (2007).
[43] *Wadford v. S.C. Pub. Serv. Auth.*, No. 2:24-CV-00006-RMG-MHC, 2024 WL 4700561, at *16 (D.S.C. Sept. 6, 2024), *report and recommendation adopted*, No. 2:24-CV-00006-RMG, 2024 WL 4471354 (D.S.C. Oct. 11, 2024) (*citing Hansson*, 650 S.E2d at 72)).

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> decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.[44]

Here, the Plaintiff's actions, construed as true for purposes of this Motion, do not meet this threshold. South Carolina Courts have rejected IIED claims where the alleged extreme and outrageous action was an act of retaliation.[45] Therefore, this Court finds that Plaintiff fails to state a claim for IIED.

E. Civil Conspiracy

In South Carolina, to state a claim for civil conspiracy, the Plaintiff must show (1) the combination or agreement of two or more persons; (2) to commit an unlawful act or a lawful act by unlawful means; (3) with the commission of an overt act in the furtherance of the agreement; (4) damages resulting to the plaintiff.[46] Defendants contend that the intra-corporate conspiracy doctrine applies to bar Plaintiff's civil conspiracy claim. Under the intra-corporate conspiracy doctrine, a corporation cannot conspire with its agents because the agents' acts are the corporation's own.[47] Corporate employees cannot conspire with each other or with the corporation.[48]

Here, Plaintiff has only alleged this claim against the Defendants – BHDD, Ms. Pfeil and Ms. McGarty. Plaintiff's Complaint admits that the individual Defendants are employees of

[44] *Corder v. Champion Rd. Mach. Int'l Corp.*, 283 S.C. 520, 524, 324 S.E.2d 79, 81 (Ct. App. 1984) (quoting Restatement (Second) of Torts Section 46, comment d (1977)).
[45] *See Id*. (finding that discharge in retaliation for filing worker's compensation claims, without more, failed to rise to the level of extreme and outrageous); *see also Melton v. Medtronic, Inc.*, 389 S.C. 641, 651, 698 S.E.2d 886, 891 (Ct. App. 2010) (finding that dismissing a patient close in time to surgery in retaliation for the patient expressing distrust in the doctor failed to rise to the level of extreme and outrageous conduct).
[46] *Paradis v. Charleston Cnty. Sch. Dist.*, 433 S.C. 562, 574, 861 S.E.2d 774, 780 (2021)
[47] *See Painter's Mill Grille, LLC v. Brown*, 716 F.3d 342, 352 (4th Cir. 2013)(dismissing Plaintiff's civil conspiracy claim because the intra-corporate conspiracy doctrine applied).
[48] *Id*.

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BHDD and therefore agents of BHDD.[49] BHDD employees cannot conspire with each other or with the agency itself.[50] Therefore, the doctrine applies, and Plaintiff's defamation claim must be dismissed.

F. Invasion of Privacy: Public Disclosure of Private Facts

"Under a cause of action for the 'publicizing of one's private affairs with which the *public* has no legitimate concern', an essential element of recovery is a showing of a *public disclosure* of private facts."[51] "The disclosure of private facts must be a public disclosure, and not a private one; there must be, in other words, publicity."[52] "It is publicity, as opposed to publication, that gives rise to a cause of action for invasion of privacy."[53] "Communication to small group, absent a breach of contract, trust, or other confidential relationship, will not give rise to liability."[54] Plaintiff's Complaint alleges that his sensitive mental health information was disclosed to "neighbors" and "uninvolved third-parties." Despite filing a Complaint, two memoranda, and several exhibits, Plaintiff has never once identified who these "neighbors" or "uninvolved third-parties" are for purposes of this claim.[55] This claim should be dismissed for this reason.

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[49] *See generally*, Plaintiff's Comp. (alleging that Ms. Pfeil and Ms. McGarty are "Crises Intervention Employees at Charleston Dorchester Mental Health Center).

[50] This Court rejects Plaintiff's argument that this conspiracy involved outside parties. Plaintiff's Complaint does not allege that any outside parties were involved in the conspiracy, nor does he name them as Defendants.

[51] *Rycroft v. Gaddy*, 281 S.C. 119, 124, 314 S.E.2d 39, 43 (Ct. App. 1984) (*citing Beard v. Akzona*, Inc., 517 F.Supp 128 (E.D. Tenn 1981)) (Emphasis in original).

[52] *Rycroft v. Gaddy*, 281 S.C. 119, 124, 314 S.E.2d 39, 43 (Ct. App. 1984) (*citing Harrison v. Humble Oil*, 264 F.Supp. 89 (D.S.C. 1967)).

[53] *Rycroft v. Gaddy*, 281 S.C. 119, 124, 314 S.E.2d 39, 43 (Ct. App. 1984) (*citing Tureen v. Equifax, Inc*. 571 F.2d 411 (8th Cir. 1978)).

[54] *Id*.

[55] To the extent Plaintiff contends the "uninvolved third-parties" includes law enforcement, MUSC, and the probate court, this Court finds that a confidential relationship exists between these parties and mental health professionals concerning the disclosure of mental health information in the context of the involuntary commitment process. *See generally* S.C. Code §44-22-90(A)(2) & (4); §44-22-100(A)(2)(4) & (5).

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Further, Plaintiff provides only conclusory allegations that Defendants "disclosed" Plaintiff's sensitive mental health material to neighbors. In support of that allegation, Plaintiff alleges (1) that law enforcement detained Plaintiff in view of his neighbor's house and (2) that lawyers will not take his case which must mean that his sensitive mental health information has "spread throughout the community." Being detained in public cannot meet the element of publicity under this tort, as it would subject the arresting party to tort liability in nearly every conceivable arrest or detainment scenario. Likewise, it is too great a leap for this Court to consider that lawyers' refusal to take Plaintiff's case (which could be for a multitude of reasons related or unrelated to this specific claim) is indicative of Plaintiff's mental health information having been "spread throughout the community." Plaintiff has not alleged any facts that plausibly allege widespread community knowledge of his mental health information. This Court therefore dismisses Plaintiff's invasion of privacy claim.

This Court is aware that the Plaintiff filed an "Emergency Motion" after the hearing on the Defendants' Motion to Dismiss. This Court did not retain jurisdiction of this case and therefore will not make any ruling as to this "Emergency Motion."

Accordingly, for the aforementioned reasons, **IT IS HEREBY ORDERED** that Defendants' Motion to Dismiss is **GRANTED**, and Plaintiff's Complaint is dismissed **WITH PREJUIDICE**.

IT IS SO ORDERED.

_____

Eugene P. Warr, Jr.
Presiding Judge

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Charleston Common Pleas

Case Caption: Joel Ndunda VS Charleston Dorchester Mental Health

Case Number: 2025CP1003621

Type: Order/Dismissal

So Ordered

Eugene P. Warr, Jr.

2025-CP-10-3621

EXHIBIT

2

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

Joel Ndunda,
Plaintiff,

Brandi Pfeil, LP-A, Crisis Intervention Employee, individually and officially;
C. McGarty, Crisis Intervention Employee, individually and officially; and
Charleston Dorchester Mental Health Center,
Defendants.

FILED
2025 JUN 24 PM 1:37
JULIE J. ARMSTRONG
CLERK OF COURT

COMPLAINT
(Jury Trial Demanded)

PRELIMINARY STATEMENT
This civil action seeks damages for false imprisonment, malicious prosecution, defamation, intentional infliction of emotional distress, invasion of privacy, and civil conspiracy arising from the Defendants' deliberate submission of false and fabricated mental health records, resulting in Plaintiff's unlawful and humiliating public detainment by police under false pretenses, as well as defamatory false statements made to law enforcement dismissing Plaintiff's legitimate reports of cyber hate crimes.

PARTIES
1. Plaintiff Joel Ndunda is a resident of Charleston, South Carolina.
2. Defendant Brandi Pfeil, LP-A, acted individually and officially as a Crisis Intervention Employee at Charleston Dorchester Mental Health Center.
3. Defendant C. McGarty acted individually and officially as a Crisis Intervention Employee at Charleston Dorchester Mental Health Center.
4. Charleston Dorchester Mental Health Center operates in South Carolina, responsible for supervising its staff's conduct.

JURISDICTION AND VENUE
Jurisdiction is proper per Article V, § 11 of the South Carolina Constitution. Venue is proper in Charleston County, as the actions giving rise to these claims occurred here.

FACTUAL ALLEGATIONS
1. On or about **May 1, 2025**, Defendants Brandi Pfeil and C. McGarty completed and submitted a falsified **Suicide Severity Rating Scale (SSRS)** screening form, fraudulently marking *every* suicide-related question "Yes," even though Plaintiff made **no statements** indicating suicidal or homicidal ideation.
2. The SSRS and accompanying notes contained **more than ten (10) knowingly false statements**, including that Plaintiff was homicidal, suicidal, agitated, skipped meals, and posed an immediate danger—claims wholly unsubstantiated by Plaintiff's behavior or any collateral documentation.
3. In the same report, Defendants simultaneously described Plaintiff as **cooperative and compliant**, underscoring the internal contradiction and falsity of their narrative.

4. Defendants cited a non-existent "protocol" to justify contacting law enforcement. Acting on these fabrications, police publicly detained Plaintiff in a patrol vehicle on a **neighbor's lawn**, despite the availability of private space next to Plaintiff's home.
5. A facility supervisor later admitted **no written protocol exists**, yet maintained that proper procedure had been followed.
6. Plaintiff was **not arrested, charged, or psychiatrically committed**; law-enforcement involvement was later dismissed, confirming the malicious and baseless nature of the detention.
7. Defendants falsely told police that Plaintiff had a prior history of "delusional statements," even though no investigation was conducted into the **cyber hate-crime video** Plaintiff had reported—a graphic clip depicting a Black man hung upside-down, shot multiple times, and set on fire.
8. This mischaracterization discredited Plaintiff's legitimate hate-crime complaint and served as retaliation for raising the issue.
9. Defendants next asserted that Plaintiff should be "**staffed immediately**" to a mental-health facility. Transport, however, was delayed pending "medical clearance."
10. Plaintiff was taken to **MUSC Health**, where staff announced that blood would be drawn for an array of tests, **including HIV and STD screening**, purportedly "routine before psychiatric admission. Plaintiff was never offered the opportunity to consent or refuse, in violation of federal HIPAA consent standards (**45 C.F.R. § 164.506**) and related privacy protections.
11. Federal law, including the HIPAA Privacy Rule, requires that patients be informed and given the opportunity to consent to or decline medical testing. Plaintiff's HIV/STD testing was neither anonymous nor clinically indicated and was performed without informed consent; the results were included in Plaintiff's permanent medical record.
12. Despite the supposed urgency, Plaintiff was required to **wait until 2:00 a.m.** to see a psychologist, who relied on the falsified report and opined that a "more educated psychologist" should examine Plaintiff at 10:00 a.m.
13. After spending the night in the emergency department—and still without any official diagnosis—Plaintiff was **released**. The absence of clinical findings underscored the lack of probable cause for the detention, testing, and threatened institutionalization.
14. As a direct result of Defendants' actions, Plaintiff suffered severe emotional trauma, humiliation in front of neighbors and medical staff, reputational damage, invasion of privacy, and the lasting stigma of false mental-health allegations.

CAUSES OF ACTION

Count I – False Imprisonment

Plaintiff was intentionally and unlawfully detained by law-enforcement officers based solely on the false SSRS screening and fabricated statements supplied by Defendants. There was **no probable cause or legal justification** for the detention, which took place publicly on a neighbor's lawn. As a direct result, Plaintiff suffered emotional distress, humiliation, and reputational harm.

Count II – Malicious Prosecution

Defendants initiated a false and malicious process by recommending immediate institutional "staffing" under emergency pretense. The process was ultimately dismissed with **no psychiatric commitment and no charges filed**, constituting favorable termination. Defendants acted with malice and without probable cause.

Count III – Defamation and False Light
Defendants knowingly published false statements—verbal and written—to police, medical personnel, and third parties, portraying Plaintiff as homicidal, suicidal, and delusional. These statements were made with actual malice and placed Plaintiff in a **false light**, resulting in reputational damage, public shame, and exposure to contempt and ridicule.

Count IV – Intentional Infliction of Emotional Distress
Defendants' conduct—including fabricating medical records, orchestrating a public detention, coercing unwanted HIV/STD testing without consent, and dismissing a legitimate hate-crime report—was extreme, outrageous, and either intentional or reckless. Plaintiff experienced severe emotional trauma, anxiety, and humiliation.

Count V – Civil Conspiracy
Defendants conspired to fabricate a mental-health crisis, induce police involvement, and misrepresent Plaintiff's condition to MUSC staff, thereby causing unlawful detention, invasive testing, and reputational injury.

Count VI – Invasion of Privacy: Public Disclosure of Private Facts
By detaining Plaintiff in public and disclosing sensitive mental-health allegations and testing to neighbors and uninvolved third parties, Defendants publicly revealed private facts that would be highly offensive to a reasonable person and served no legitimate public interest.

PRAYER FOR RELIEF
WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

A. Compensatory damages in an amount not less than **$1,500,000**, for emotional distress, psychological trauma, reputational harm, unlawful detention, public humiliation, and the violation of Plaintiff's personal autonomy and privacy;

B. Punitive damages in an amount not less than **$5,000,000**, to punish and deter the malicious, reckless, and outrageous conduct of the Defendants, including fabrication of medical records, abuse of psychiatric intervention protocols, false imprisonment, and unlawful medical testing without informed consent;

C. A formal finding of civil rights violations and misconduct, including but not limited to the violation of informed consent laws under the **Health Insurance Portability and Accountability Act (HIPAA)**, and other applicable federal or state statutes.

D. Prejudgment and post-judgment interest as allowed by law;

E. All reasonable costs and expenses of this action, including filing fees, mailing fees, service of process, and any other out-of-pocket expenses incurred by Plaintiff in pursuit of justice;

F. Any further and additional relief this Court deems just, necessary, and proper in light of the egregious and multifaceted nature of the Defendants' actions.

DEMAND FOR JURY TRIAL
Plaintiff demands a jury trial on all issues so triable.

EXHIBITS IN SUPPORT OF COMPLAINT

Plaintiff attaches the following exhibits to support the claims and legal assertions herein:

- **Exhibit A** – Full text of South Carolina Code § 44-29-135 **AND** Addendum (incorporating § 44-29-136, explaining need for disclosure of who ordered testing, plus discovery demands).

- **Exhibit B** – Summary of relevant provisions from the **HIPAA Privacy Rule** as issued by the U.S. Department of Health and Human Services.

- **Exhibit C** – CDC Guidelines on routine HIV/STD screening and consent procedures.

- **Exhibit D** – MUSC Health's publicly available patient rights and consent policy (or written correspondence referencing such policy, if applicable).

- **Exhibit E** – Documentation or evidence of the hate crime cyber attack video or associated police report, reinforcing the context for Plaintiff's statements and disproving the delusional characterization.

These exhibits are offered to substantiate Plaintiff's claims regarding unlawful testing, privacy breaches, and misconduct by mental health and medical professionals.

Respectfully submitted this 24th day of June, 2025.

Joel Ndunda, Plaintiff pro se
4015 Laurelwood Dr.
Charleston, SC 29414

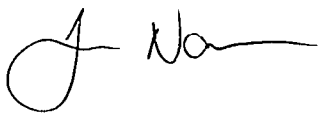


Exhibit A: South Carolina Code § 44-29-135

Confidentiality of Sexually Transmitted Disease Records
(Informed-Consent Requirements for HIV Test Result Disclosure)

Full statutory text follows.

FULL TEXT – § 44-29-135

SECTION 44-29-135. Confidentiality of sexually transmitted disease records.

All information and records held by the Department of Health and Environmental Control and its agents relating to a known or suspected case of a sexually transmitted disease are strictly confidential except as provided in this section. The information must not be released or made public, upon subpoena or otherwise, except under the following circumstances:

(a) release is made of medical or epidemiological information for statistical purposes in a manner that no individual person can be identified; or
(b) release is made of medical or epidemiological information with the consent of all persons identified in the information released;
(c) release is made of medical or epidemiological information to the extent necessary to enforce the provisions of this chapter and related regulations concerning the control and treatment of a sexually transmitted disease;
(d) release is made of medical or epidemiological information to medical personnel to the extent necessary to protect the health or life of any person; or
(e) in cases involving a minor, the name of the minor and medical information concerning the minor must be reported to appropriate agents if a report is required by the Child Protection Act of 1977. No further information is required to be released by the department. If a minor has Acquired Immunodeficiency Syndrome (AIDS) or is infected with Human Immunodeficiency Virus (HIV)... *[statute continues].*

Addendum to Exhibit A – Necessity of Disclosure and Paper Trail for HIV/STD Testing Orders

South Carolina Code § 44-29-135 requires informed consent for the **release** of STD/HIV test results, but is silent on whether consent is needed for the **test itself**. Neither this statute **nor § 44-29-136** grants any hospital or provider authority to order HIV/STD testing without documented clinical justification.

Governing Standards

- **HIPAA (45 C.F.R. § 164.506), CDC guidelines, and MUSC Health policy require:**
  1. Advance notice and an opportunity to consent or refuse (except true emergencies).
  2. Documentation of **who ordered** the test and **why**.
  3. No routine, non-consented testing.

Facts in Plaintiff's Case

- Plaintiff **was never notified** or allowed to refuse.
- Plaintiff learned of the testing only **after** blood was drawn.
- No clinical symptoms or risk factors justified the tests.

Relief Sought

Plaintiff requests that Defendants disclose:

1. **Identity** of all individual(s) who ordered/authorized Plaintiff's HIV/STD tests.
2. The **rationale or policy** cited for ordering the tests.
3. Any **documentation, orders, or communications** authorizing or explaining the tests.

This addendum demonstrates that, regardless of statutory silence on consent for testing itself, state and federal regulations **require notice, justification, and a clear paper trail**. Plaintiff is entitled to discovery of all records identifying **who** ordered the tests, **why**, and **under what policy**.

Discovery Request Language

Request for Production No. 1
Produce every document, electronic health-record entry, order sheet, or communication identifying the person(s) who ordered or authorized HIV/STD testing of Joel Ndunda at MUSC Health, including date/time and professional role.

Request for Production No. 2
Produce all documents stating or referring to the clinical, legal, or policy basis relied upon for ordering said HIV/STD tests.

Request for Production No. 3
Produce any documentation reflecting that Plaintiff was informed of the testing and provided an opportunity to consent or refuse.

End of Exhibit A Package

Exhibit B – HIPAA Consent Requirements

Under the Health Insurance Portability and Accountability Act (HIPAA), 45 C.F.R. § 164.506 outlines the requirements for obtaining consent before using or disclosing protected health information (PHI) for treatment, payment, or health care operations.

Key provisions include:
- Covered entities are permitted to use or disclose PHI for treatment, payment, or healthcare operations only with patient consent or under specific conditions.
- HIPAA Privacy Rule mandates that patients must be informed of their rights and how their health information will be used.
- Informed consent must be obtained unless an exception applies (e.g., emergency situations, de-identified information).

These protections apply to HIV/STD testing results, and failure to obtain informed consent may constitute a violation of federal privacy laws.

See attached:

SUMMARY OF
THE HIPAA PRIVACY RULE

Introduction	The *Standards for Privacy of Individually Identifiable Health Information* ("Privacy Rule") establishes, for the first time, a set of national standards for the protection of certain health information. The U.S. Department of Health and Human Services ("HHS") issued the Privacy Rule to implement the requirement of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").[1] The Privacy Rule standards address the use and disclosure of individuals' health information—called "protected health information" by organizations subject to the Privacy Rule — called "covered entities," as well as standards for individuals' privacy rights to understand and control how their health information is used. Within HHS, the Office for Civil Rights ("OCR") has responsibility for implementing and enforcing the Privacy Rule with respect to voluntary compliance activities and civil money penalties. A major goal of the Privacy Rule is to assure that individuals' health information is properly protected while allowing the flow of health information needed to provide and promote high quality health care and to protect the public's health and well being. The Rule strikes a balance that permits important uses of information, while protecting the privacy of people who seek care and healing. Given that the health care marketplace is diverse, the Rule is designed to be flexible and comprehensive to cover the variety of uses and disclosures that need to be addressed. This is a summary of key elements of the Privacy Rule and not a complete or comprehensive guide to compliance. Entities regulated by the Rule are obligated to comply with all of its applicable requirements and should not rely on this summary as a source of legal information or advice. To make it easier for entities to review the complete requirements of the Rule, provisions of the Rule referenced in this summary are cited in notes at the end of this document. To view the entire Rule, and for other additional helpful information about how it applies, see the OCR website: http://www.hhs.gov/ocr/hipaa. In the event of a conflict between this summary and the Rule, the Rule governs. Links to the OCR Guidance Document are provided throughout this paper. Provisions of the Rule referenced in this summary are cited in endnotes at the end of this document. To review the entire Rule itself, and for other additional helpful information about how it applies, see the OCR website: http://www.hhs.gov/ocr/hipaa.
Statutory & Regulatory Background	The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, was enacted on August 21, 1996. Sections 261 through 264 of HIPAA require the Secretary of HHS to publicize standards for the electronic exchange, privacy and security of health information. Collectively these are known as the *Administrative Simplification* provisions. HIPAA required the Secretary to issue privacy regulations governing individually identifiable health information, if Congress did not enact privacy legislation within

Exhibit C – CDC Guidelines on HIV/STD Testing Consent

The Centers for Disease Control and Prevention (CDC) recommends the following regarding HIV/STD testing consent procedures:

- HIV screening should be voluntary and undertaken only with the patient's knowledge.
- Patients should be informed orally or in writing that testing will be performed unless they decline (opt-out).
- Providers should offer an opportunity for patients to ask questions and to decline testing.
- Explicit written consent is not required by CDC guidelines, but informed opt-out must be clearly communicated.

Source: CDC Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings (2006).

See attached:

Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings

Prepared by
Bernard M. Branson, MD[1]
H. Hunter Handsfield, MD[2]
Margaret A. Lampe, MPH[1]
Robert S. Janssen, MD[1]
Allan W. Taylor, MD[1]
Sheryl B. Lyss, MD[1]
Jill E. Clark, MPH[3]

[1]*Division of HIV/AIDS Prevention, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (proposed)*
[2]*Division of STD Prevention, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (proposed) and University of Washington, Seattle, Washington*
[3]*Northrup Grumman Information Technology (contractor with CDC)*

Summary

These recommendations for human immunodeficiency virus (HIV) testing are intended for all health-care providers in the public and private sectors, including those working in hospital emergency departments, urgent care clinics, inpatient services, substance abuse treatment clinics, public health clinics, community clinics, correctional health-care facilities, and primary care settings. The recommendations address HIV testing in health-care settings only. They do not modify existing guidelines concerning HIV counseling, testing, and referral for persons at high risk for HIV who seek or receive HIV testing in nonclinical settings (e.g., community-based organizations, outreach settings, or mobile vans). The objectives of these recommendations are to increase HIV screening of patients, including pregnant women, in health-care settings; foster earlier detection of HIV infection; identify and counsel persons with unrecognized HIV infection and link them to clinical and prevention services; and further reduce perinatal transmission of HIV in the United States. These revised recommendations update previous recommendations for HIV testing in health-care settings and for screening of pregnant women (CDC. Recommendations for HIV testing services for inpatients and outpatients in acute-care hospital settings. MMWR 1993;42[No. RR-2]:1–10; CDC. Revised guidelines for HIV counseling, testing, and referral. MMWR 2001;50[No. RR-19]:1–62; and CDC. Revised recommendations for HIV screening of pregnant women. MMWR 2001;50[No. RR-19]:63–85).

Major revisions from previously published guidelines are as follows:

For patients in all health-care settings

- *HIV screening is recommended for patients in all health-care settings after the patient is notified that testing will be performed unless the patient declines (opt-out screening).*
- *Persons at high risk for HIV infection should be screened for HIV at least annually.*
- *Separate written consent for HIV testing should not be required; general consent for medical care should be considered sufficient to encompass consent for HIV testing.*
- *Prevention counseling should not be required with HIV diagnostic testing or as part of HIV screening programs in health-care settings.*

For pregnant women

- *HIV screening should be included in the routine panel of prenatal screening tests for all pregnant women.*
- *HIV screening is recommended after the patient is notified that testing will be performed unless the patient declines (opt-out screening).*
- *Separate written consent for HIV testing should not be required; general consent for medical care should be considered sufficient to encompass consent for HIV testing.*
- *Repeat screening in the third trimester is recommended in certain jurisdictions with elevated rates of HIV infection among pregnant women.*

The material in this report originated in the National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (proposed), Kevin A. Fenton, MD, PhD, Director; and the Division of HIV/AIDS Prevention, Timothy D. Mastro, MD, (Acting) Director.
Corresponding preparer: Bernard M. Branson, MD, Division of HIV/AIDS Prevention, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (proposed), 1600 Clifton Road, N.E., MS D-21, Atlanta, GA 30333. Telephone: 404-639-0900; Fax: 404-639-0897; E-mail: bbranson@cdc.gov.

EXHIBIT D – MUSC Health "Patient Rights & Responsibilities" Policy

MUSC Policy Clause	Plain Meaning	Supports These Claims
Informed-Consent Right (Purpose § 1; Participation in Treatment Decisions)	No test, treatment, photograph, filming, or recording without clear explanation and patient's voluntary agreement.	False Imprisonment, IIED, Punitive Damages
Right to Refuse Care or Treatment (Refusal of Care; Patient Responsibilities - "Refusal of Treatment/Accepting Consequences")	Patient may decline any proposed procedure and cannot be coerced.	Malicious Prosecution, Civil Conspiracy
Identity of Caregivers (Confidentiality & Information Disclosure)	Hospital must disclose who is primarily responsible for each aspect of care.	Discovery of who ordered HIV/STD tests; Invasion of Privacy
Confidentiality of Records (Confidentiality §)	PHI may not be disclosed without authorization except as allowed by law.	Defamation/False Light, Privacy
Notification & Communication Rights	Patient may have spokesperson present, be informed of admission, and communicate freely.	Public-Disclosure claim (neighbors heard false allegations)
Freedom from Abuse/Neglect & Restraint	Staff must not subject patient to mental, physical, or chemical restraints that are not medically necessary.	IIED, False Imprisonment
Grievance Process	Prompt review of complaints; no retaliation.	Pattern-and-practice evidence, punitive damages

2 Targeted Discovery Requests Based on Policy

1. **D-1 – Policies & Editions**
   Produce every version (2023-present) of MUSC's "Patient Rights & Responsibilities" and "Consent for Treatment" policies in effect on 1 May 2025.
2. **D-2 – Consent Documentation**
   Produce any consent, refusal, or acknowledgement forms bearing Plaintiff's name—including electronic signatures—in relation to HIV/STD testing or psychiatric admission.
3. **D-3 – Ordering Provider Identification**
   Produce the electronic-health-record (EHR) audit trail showing the username, role, date, and time of the HIV/STD test orders for Plaintiff.

4. **D-4 – Grievance / Incident Reports**
   Produce all internal complaints, incident reports, or Root-Cause Analyses referencing Plaintiff or the events of 1 May 2025.

3 Full Policy Text (Verbatim)

Patient Rights & Responsibilities
(If assistance needed, contact MUSC Health Interpreter Services at 843-792-5078.)

Purpose
To acknowledge patients' rights and responsibilities and the Medical Center's responsibility to respond to each patient with personal dignity and respect in a smoke-free environment.

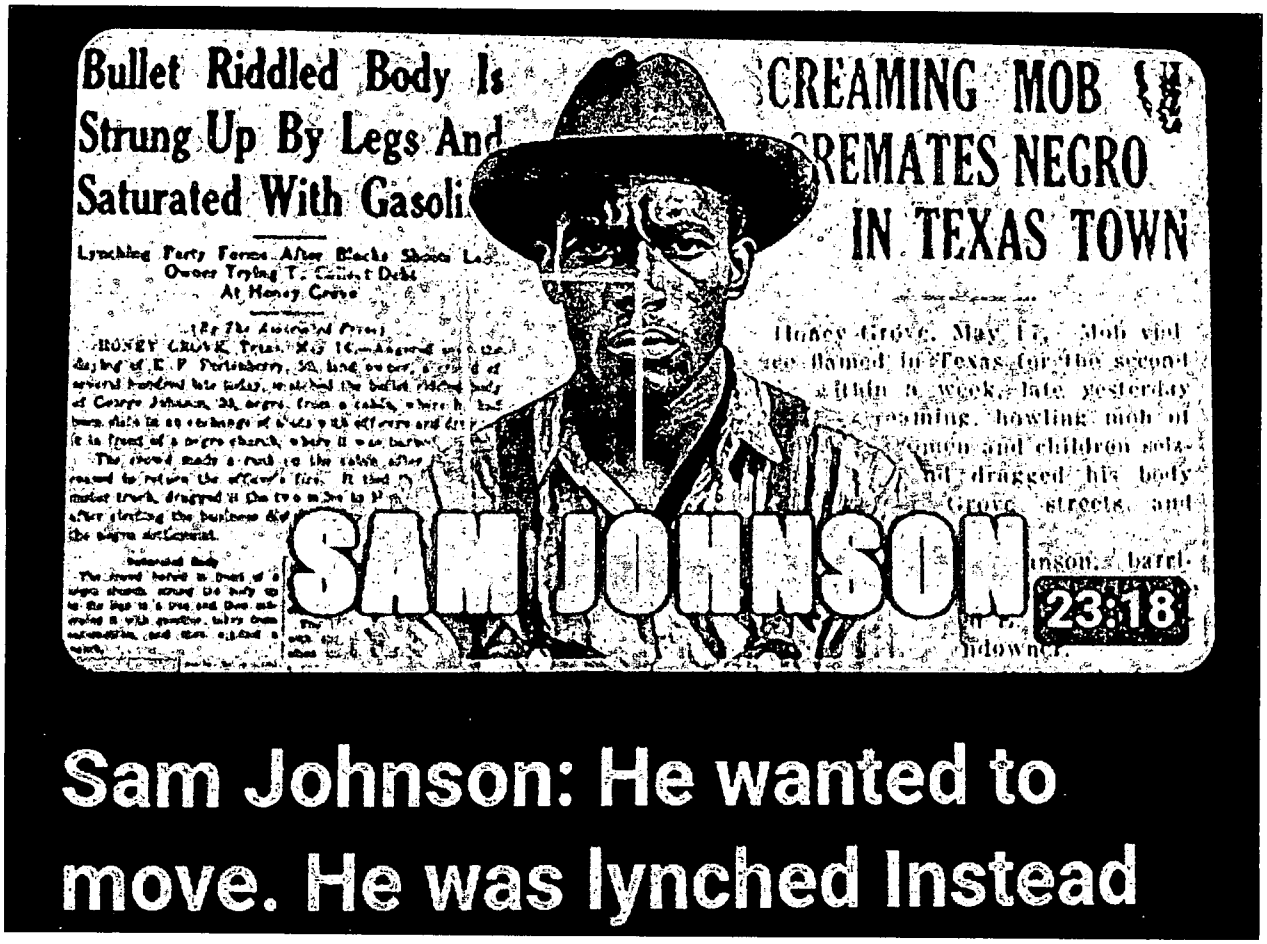
Our patients have the right to considerate, respectful care at all times and under all circumstances. MUSC Medical Center develops and implements policies which respect the rights of all patients regardless of age, race, ethnicity, religion, culture, language, physical or mental disability, socioeconomic status, sex, sexual orientation, and gender identity or expression.

(policy text continues exactly as supplied, including headings "Patient Rights," "Personal Spokesperson, Visitation & Communication," "Respect and Nondiscrimination," "Participation in Treatment Decisions," "Confidentiality & Information Disclosure," "Patient Safety & Quality of Care Complaints," "Patient Responsibilities," and all subordinate bullet points)

[End of Verbatim MUSC Policy]

EXHIBIT E – Hate-Crime Evidence

(Screenshots or media of the cyber-hate video and related police-report pages



EXHIBIT

3

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

9th JUDICIAL CIRCUIT

COUNTY OF CHARLESTON

JOEL NDUNDA,

Plaintiff,

v.

SOUTH CAROLINA DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES, OFFICE OF MENTAL HEALTH; et al.

Defendants.

2025 AUG -8 PM 1:24
JULIE J. ARMSTRONG
CLERK OF COURT
FILED

CASE NO.: 2025-CP-10-3621

AFFIDAVIT OF DR. MUTINDI NDUNDA

Personally appeared before me, the undersigned Notary Public, **MUTINDI NDUNDA**, who, being duly sworn, deposes and states:

1. I am over eighteen (18) years of age, competent to testify, and make this affidavit on personal knowledge.

2. I am the mother of **Joel Ndunda** ("Joel"), the Plaintiff in the above-captioned action, and I personally witnessed the events described herein.

3. On the late morning hours of **1 May 2025** I contacted **Charleston Dorchester Mental Health Center** ("CDMHC") after Joel received a graphic hate-crime video depicting a Black man being tortured and killed. The contact was for my own counselling as well as for my son Joel on how to deal with cyber crimes and the emotional distress these crimes were causing.
4. My husband and I met with Ms. Brandi Pfeil who informed us that there is a Crisis **Mobile** team that can be sent **to assess whether Joel was in crisis**. After we left the facility, we called to confirm that the team could come to make an "assessment" as we agreed. Based on their professional role and stated expertise with cyber-bullying trauma, I expected an unbiased and truthful assessment.

5. **Earlier that same day, at the CDMHC office**, Crisis-Intervention employee **Brandi Pfeil, LPC** repeatedly stressed to me in person that she was "very experienced" in mental-health crises; My expectations were that she would make the correct assessments. However, she acknowledged having just over three (3) years of experience.

6. At approximately **5:30 p.m. Ms. Pfeil** and colleague **Ms. McGarty** arrived at our home with a law enforcement officer. Ms. McGarty interviewed Joel and Ms. Pfeil recorded his responses. Joel was calm,

cooperative, and answered all questions in the presence of me, his father, his girlfriend, and the law enforcement officer.

7. After the interview, Ms. Pfeil and Ms. McGarty left the house and went to consult their superiors about their findings.
8. After a while, they returned to tell us that Joel was to be taken to MUSC. Joel's father and myself asked for reasons why he needed to be transported to MUSC. Ms. Pfeil & McGarty refused to provide reasons other than that Joel needed to be seen by someone with "**higher credentials than themselves.**"
9. We were not provided with details on the mobile crisis assessment or hospitalization process.
10. The situation was not an **emergency** and there was no incarceration as marked in the report which was given to Joel after he requested it in early June, 2025. Irrespective of the crisis team having noted this in their report **on May 1, 2025**, Joel was paraded through the neighborhood to be transported to MUSC by the law enforcement officer.
11. In our meeting with Ms. Lewis and Puebla on May 1, 2025, Mr. Puebla told us that was their policy to park relatively far from the patient's home for the security of the crisis team. However, there was no reason why the law enforcement officer parked on our neighbor's property. Unfortunately that parking policy was not shared with us and we later found that no such policy exists. There was ample space beside the house that would have ensured more privacy (**See map exhibit # 7: Street view photos**. Home situated on the corner of [redacted]).

Events Disputed in Defendants' Records.

12. The written Mobile-Crisis report produced by Ms. Pfeil and Ms. McGarty and later shared with Joel in June contains numerous false statements, including—but not limited to—
    a. Marking "**YES**" to every Suicide Severity Rating Scale item, falsely indicating Joel had suicidal ideation, intent, and planning;
    b. Stating Joel was **homicidal** or seeking revenge; while he merely said "**who hasn't thought about revenge**" in a joking manner;
    c. Claiming he was agitated and responding to internal stimuli, though he remained calm and oriented;
    d. Reporting that the family noted that he was not "eating normally" even though he had just prepared and eaten dinner and routinely cooks;
    e. Mislabeling Joel's stolen **brain-cap** as a " **vase**."

13. I sent multiple e-mails and letters to CDMHC Patient Advocate **Ms. Lewis and Mr. Puebla** detailing these falsehoods; she provided us with a very brief grievance report which did not address the issues. See **Exhibits #4-Grivance Report**

14. Telephone numbers provided to contact the probate office **were never returned.**

15. During our meeting with Ms. Lewis and Mr. Puebla Director of Special Operations South Carolina Department of Mental Health (SCDMH) on **8 May 2025**, when we were told that there is a policy about parking but it turned out there is none. Unfortunately the team proceeded to park at the neighbor's yard while there was plenty of space around the corner of our home that would have provided privacy. (**See map exhibit # 7)**

16. Mr. Puebla noted that the Crisis Team observed that Joel was delusional (**see exhibit 1-follow up letter of May 8 meeting)** despite them not attempting to investigate his claims and evidence that he had in his computer nor did they pay attention to what he said to them; malware designed to make individuals come to specific conclusions. He did not say that he actually believed the messages the malware was intending to send.
17. We were informed that the process to correct the false information in their report and expunge the records could take 6 months or longer and there ws no guarantee any changes would be made.
18. Furthermore, during our meeting on **May 8, 2025**, Mr. Puebla, agreed with the conduct of both Brandi Pfeil and Caitlin McGarty. This response made it clear to us that the leadership was complicit and it became apparent to us that continuing to seek resolution through this office would be futile.
19. We were given conflicting information about the role of the crisis team. At one point, we were told that they consider every call an emergency as well as an assessment of the situation. In their own report, in their clinical service report, they stated that it was not an emergency and there was no incaceration.

    From **May 4 – July 10, 2025** we sent multiple follow-up emails requesting correction, an internal investigation, and sealing of the false report. (**Exhibits. 1 thru 7**). The parent advocate provided a one-page **"Request for Grievance Review"** form devoid of substantive findings. (**Exihit # 3**) in addition to other general resources. This minimal response and the leadership complicitness, plus lack of returned calls from contacts provided, convinced us that CDMHC would not address the issues we have raised voluntarily. Given the extent of the falsehoods, the failure to achieve any concrete results, all these concerns made it impossible to go through the administrative process.

20. I swear that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dr. mutindi ndunda, Affiat

SWORN to and subscribed before me this 8 day of August, 2025.

Notary Public for South Carolina
My Commission Expires: 08/27/2034

DASHAIA SIMMONS
Notary Public
State of South Carolina
My Commission Expires Aug 27, 2034

Exhibit	Description
1	Exhibit 1: Initial Email Of Complaint-Mobile Crisis Response May 4
2	Exhibit 2: Follow-Up Letter To Lewis & Puebla (5/12/25)
3	Exhibit 3: Grievance Request Review
3	Exhibit 4: June 12- Urgent Followup Regarding Inaccurate Crisis Mobile Clinic Report
4	Exhibit #5: June 16-Follow Up Grievance Report
5	Exhibt #5 Email Chain
6	Email To State Directors Re Mobile Crisis Falsehoods (6/12/25)
7	Street-View Photos Showing Patrol-Car Location

EXHIBIT

4

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

7th JUDICIAL CIRCUIT

COUNTY OF CHARLESTON

2025 AUG -8 PM 1:24

JULIE J. ARMSTRONG
CLERK OF COURT

JOEL NDUNDA,

Plaintiff,

v.

SOUTH CAROLINA DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES, OFFICE OF MENTAL HEALTH; et al.

Defendants.

CASE NO.:2025-CP-10-3621

AFFIDAVIT OF THOMAS NDUNDA NDAMBUKI

Personally appeared before me, the undersigned Notary Public, Thomas Ndunda Ndambuki, who, being duly sworn, deposes and states the following:

1. I am over the age of eighteen (18), competent to testify, and make this affidavit based on my personal knowledge.

2. I am the father of Joel Ndunda ("Joel"), the Plaintiff in the above-captioned action, and I personally witnessed the events described herein.

3. On the morning of May 1, 2025, my wife, Mutindi Ndunda, contacted the Charleston Dorchester Mental Health Center ("CDMHC") after Joel received a disturbing hate-crime video depicting the torture and killing of a Black man. Later that afternoon, my wife and I went in person to the CDMHC facility and met with crisis-intervention employee Brandi Pfeil. During our discussion, we expressed concern about Joel's emotional state but made it clear that we did not believe the situation constituted an emergency. Ms. Pfeil acknowledged our concerns and instructed us to call back to confirm if they could still come and do their assessment.

4. After leaving the facility, we later contacted the CDMHC staff asking whether they could come to our home to speak with Joel. They also asked whether Joel was home and if we still wanted them to speak with all of

us—not only Joel—and we responded affirmatively. However, I again stated that we did not consider this to be an emergency.

5. Based on the team's stated professional qualifications and CDMHC's representation of expertise in cyberbullying-related trauma, we expected an unbiased, ethical, and truthful evaluation.

6. At approximately 5:30 p.m., Ms. Pfeil and her colleague Caitlin McGarty arrived at our home accompanied by a uniformed police officer. Joel was calm, cooperative, and answered all questions in the presence of me (his father), my wife Mutindi, his girlfriend, and the officer.

7. The written Mobile Crisis report prepared by Ms. Pfeil and Ms. McGarty contains numerous false or misleading statements, including—but not limited to:

    - a. Marking "YES" on every item of the Suicide Severity Rating Scale, falsely suggesting that Joel had suicidal ideation, intent, and planning;

    - b. Stating Joel was homicidal or seeking revenge, when in fact he made a joking remark: "Who hasn't thought about revenge?";

    - c. Claiming Joel was agitated and responding to internal stimuli, despite his calm and oriented demeanor;

    - d. Reporting that our family said Joel was not "eating normally," though he had just prepared and eaten a full meal and regularly cooks;

    - e. Mislabeling Joel's stolen therapeutic brain-cap device as a "vase."

8. Joel was detained on a neighbor's lawn, publicly displayed in front of the neighborhood. The team falsely claimed there was a policy preventing them from parking on our property, despite there being ample space beside our home that would have allowed for discretion and privacy.

9. CDMHC staff did not explain the mobile crisis assessment or hospitalization process clearly. Although their final report stated the situation was not an emergency and that there was no incarceration, they still recommended hospitalization—without justification.

10. No member of the Mobile Crisis team provided Joel or our family with any written information regarding his rights, options, or alternative resources. Additionally, when we asked to review the report that had been written about Joel, we were told that they could not share it with us and that it was "only for their records." They did not explain the contents of the report or the basis of their findings, further limiting our ability to understand or respond to the conclusions they had drawn.

11. My wife, Mutindi submitted multiple emails and letters to CDMHC's Patient Advocate, Ms. Lewis, documenting these falsehoods. In return, we received only a brief grievance summary that failed to substantively address our complaints.

12. We were informed that the process to correct the false information in their reports and expunge the records could take months or longer and that there was no guarantee any changes would be made. Furthermore, during our meeting on May 8, 2025, Mr. Puebla openly stated that he agreed with the conduct of both Brandi Pfeil and Caitlin McGarty. This response made it clear that the leadership was complicit, and it became apparent that continuing through the administrative process would be futile.

13. The telephone numbers we were given to contact the probate office went unanswered, and our calls were never returned.

14. During a meeting with Ms. Lewis and Mr. Puebla on May 8, 2025, we were told that the crisis team was following a parking policy. However, no such policy was ever provided, and it was ultimately revealed that none existed. Nonetheless, the team parked in a neighbor's yard instead of utilizing the discreet parking available around the corner of our home.

15. We received conflicting explanations regarding the role of the Mobile Crisis team. At one point, we were told that every call is treated as both an emergency and an assessment. This was later contradicted by documentation and statements from the team, and appeared to reflect another misrepresented policy.

16. In CDMHC's own clinical service report, the team confirmed that the situation was not an emergency, that no incarceration occurred, and that Joel was later released from MUSC without any formal psychiatric evaluation. These facts show that the team lacked legitimate grounds for initiating an involuntary crisis response and hospitalization.

17. Given the scope of false statements, procedural failures, and the unresponsiveness of the patient advocacy process, I found it impossible to pursue further redress through the available administrative channels.

18. I swear that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Thomas Ndunda Ndambuki, Affiant

SWORN to and subscribed before me this 8 day of Aug, 2025.

Notary Public for South Carolina

My Commission Expires: 08/27/2034

DASHAIA SIMMONS
Notary Public
State of South Carolina
My Commission Expires Aug 27, 2034

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	NINTH JUDICIAL CIRCUIT
	)	
JOEL NDUNDA,	)	CASE NO. 2025-CP-10-3621
	)	
PLAINTIFF,	)	
	)	
vs.	)	
	)	
BRANDI PFEIL, LP-A, CRISIS INTERVENTION EMPLOYEE, INDIVIDUALLY AND OFFICIALLY; C. MCGARTY, CRISIS INTERVENTION EMPLOYEE, INDIVIDUALLY AND OFFICIALLY; AND CHARLESTON DORCHESTER MENTAL HEALTH CENTER,	)	**AFFIDAVIT OF KELLY FRESHMAN**
	)	
DEFENDANTS,	)	
	)	

EXHIBIT

5

I Kelly Freshman, having been duly sworn, declare as follows:

1. I am, and at all times relevant to this affidavit have been, over eighteen (18) years of age and of sound mind, and I make this affidavit of my own personal knowledge.

2. I am a Lieutenant with the Charleston Police Department ("CPD"). The South Carolina Department of Behavioral Health and Developmental Disabilities ("BHDD"), formerly known as The South Carolina Department of Mental Health, had an employee, Ms. Kristin Raines, embedded within my Division at CPD.

3. In April 2026, Ms. Raines made me aware that the Plaintiff in a lawsuit against BHDD, Mr. Joel Ndunda, alleged in his filings with the Court that he was not involuntarily committed to the hospital by the proper Part I Order of Detention – which CPD refers to as "white papers." We were further informed that Mr. Ndunda alleges that this Order never existed.

4. When CPD officers are dispatched to a mental health crisis intervention scene, the officers play a limited role. They are present to protect the safety of all participants, including the BHDD mobile crisis employees and the individual in crisis. CPD officers regularly serve as the transport when BHDD determines that the individual should be detained for an evaluation at the hospital.

5. CPD officers have no authority to transport an individual, against their will, to the hospital unless there is a Part I Order of Detention ("white papers"). A Part I Order of Detention is provided by the BHDD clinicians after they have received approval from the Probate Court to detain the individual for further evaluation at the hospital.

6. Although I was not personally involved in the May 1m, 2025 crisis intervention involving Mr. Ndunda, I have reviewed CPD records relating to that incident, including body camera footage from the intervention on that date, in my official capacity, to examine Mr. Ndunda's claims regarding the existence of the Part I Order.

7. In my review of the body camera footage, I observed a BHDD clinician provide a Part I Order of Detention to Officer Cody Daniels during the intervention. The screenshot attached here as **Exhibit A** is a true and accurate screenshot taken from the body camera footage depicting the Part I Order of Detention being handed from BHDD to Officer Daniels. I provided this screenshot to BHDD on or about April 14, 2026.

8. CPD does not retain copies of Part I Orders of Detention. Consistent with CPD practice, the transporting officer delivers the Part I Order to the reviewing medical facility. In this matter, Officer Daniels delivered the Part I Order to MUSC following Mr. Ndunda's transport.

9. Based on my review of the body camera footage, the Part I Order of Detention existed and was provided to Officer Cody Daniels during the May 1, 2025, crisis intervention involving Mr. Ndunda.

FURTHER AFFIANT SAYETH NAUGHT.

Lieutenant Kelly Freshman

12th Sworn and subscribed to before me this day of August 2026.

Printed Name: Sonsarae Dancy-Miller

Notary Public for the State of South Carolina

My Commission Expires: September 7, 2032

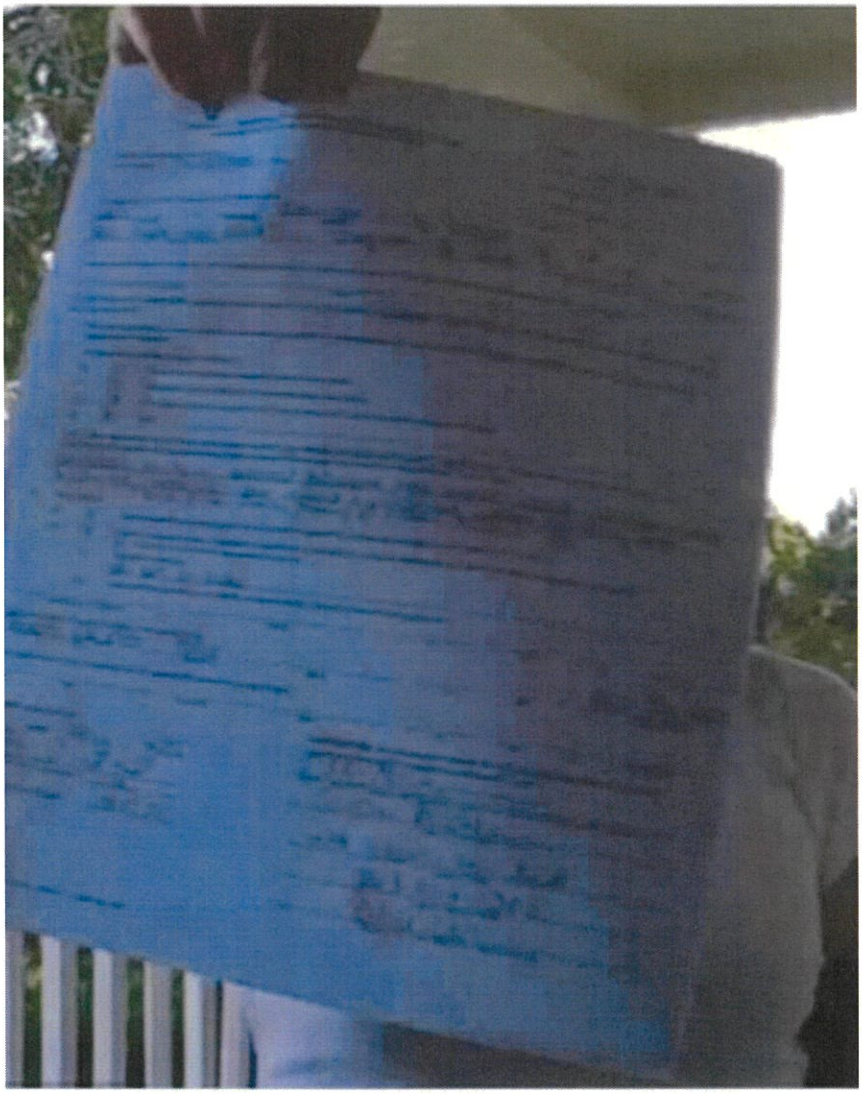
SONSARAE DANCY-MILLER
Notary Public - State of South Carolina
My Commission Expires
September 07, 2032

EXHIBIT A

Screenshot of Part I

8:41 5G+

Screenshot 2026-04-13 142801.png
PNG - 473 KB



outlook.office.com

User: GRIMESC | CHARLESTON POLICE DEPARTMENT | 05/04/2026 06:03

Field Contact

CONTACT INFORMATION

Agency	Case #
CHARLESTON POLICE DEPARTMENT	

Contact ID	Date / Time	Reason
230755	05/01/2025 21:55	BEHAVIORAL HEALTH SUBJECT

Location	Tract
[redacted] CHARLESTON	

Officer	Supervisor
DANIELS, C.	KEATING, A. S.

PERSON INFORMATION

Name	SSN
Ndunda, Joel Ndambuki	

Race	Sex	DOB	Age	DL #/State
B	M	[redacted]	40	[redacted] SC

Address	Telephone #
[redacted] CHARLESTON, SC 29414	[redacted]

Property In Possession

Weapon In Possession

Admitted Record

VEHICLE INFORMATION

License Plate # / State	Vehicle Type	Vehicle Year	Make	Model	Color
		0			

PHYSICAL CHARACTERISTICS

REMARKS

On May 1, 2025, at approximately 1710 hours, I, Officer Daniels, responded to [redacted] Charleston SC, in reference to a Behavioral Health subject.

Upon arrival I spoke to the mobile crisis counselor Brandi Pfeil. She stated that the patient, Joel Ndunda was having an episode of psychosis. His parents went to the facility on Charlie Hall and spoke to her before responding to the address for an assessment. After making contact with the patient and speaking to him, white papers were signed to have him transported to MUSC for psychiatric and medical evaluation. I transported the patient to MUSC in cruiser 307 where he was admitted for treatment.

The incident was recorded via CPD BWC and cruiser 307 rear-seat camera. All footage was uploaded.

CRIME ANALYSIS

202500263924

EXHIBIT

6

RECEIVED
Aug 14 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Court of Common Pleas

Eugene P. Warr, Jr., Circuit Court Judge

Appellate Case No. 2026-000211
Circuit Court Case No. 2025-CP-10-03621

Joel Ndunda,

Appellant,

v.

Brandi Pfeil, LP-A, Crisis Intervention Employee, individually and officially; Caitlyn McGarty, Crisis Intervention Employee, individually and officially; South Carolina Department of Behavioral and Developmental Disabilities, Office of Mental Health; and Charleston Dorchester Mental Health Center,

Defendants,

Of which Brandi Pfeil, Caitlin McGarty, and Charleston Dorchester Mental Health Center are the

Respondents.

PROOF OF SERVICE

CLEMENT RIVERS, LLP
Stephen L. Brown (SC Bar No. 66468)
Brian L. Quisenberry (SC Bar No. 73637)
Russell G. Hines (SC Bar No. 72100)
Zachary M. Kern (SC Bar No. 103731)
25 Calhoun Street, Suite 400
Charleston, South Carolina 29401
P.O. Box 993 (29402)
(843) 720-5488

Attorneys for Brandi Pfeil; Caitlin McGarty; and South Carolina Department of Behavioral and Developmental Disabilities, Office of Mental Health

I, Russell G. Hines, of Clement Rivers, LLP, attorneys for Respondents, hereby certify that the **RESPONDENTS' RETURN TO APPELLANT'S MOTION FOR SUMMARY REVERSAL AND VACATUR OF THE ORDER OF DISMISSAL ON THE GROUND OF EXTRINSIC FRAUD ON THE TRIBUNAL OR, IN THE ALTERNATIVE, TO SUPPLEMENT THE RECORD PURSUANT TO RULE 212, SCACR** was, on August 14, 2026, emailed and placed in the U.S. Mail to the Appellant at the respective email and mailing addresses below:

Joel Ndunda
4015 Laurelwood Drive
Charleston, SC 29414
geospatial02@outlook.com

Appellant

Respectfully submitted,

CLEMENT RIVERS, LLP

By: s/Russell G. Hines
Russell G. Hines (SC Bar No. 72100)

Attorneys for Brandi Pfeil; Caitlin McGarty; and South Carolina Department of Behavioral and Developmental Disabilities, Office of Mental Health

Charleston, South Carolina

August 14, 2026

Hines, Russell

From: Hines, Russell
Sent: Friday, August 14, 2026 12:46 PM
To: 'geospatial02@outlook.com'
Cc: Kern, Zachary (Zach); Justman, Barbara; Justman, Aimee; Quisenberry, Brian
Subject: Appeal 2026-000211 – Ndunda v. Pfeil – CR250791 – Return to Motion for Summary Reversal
Attachments: Ndunda v. Pfeil (2026-000211) -- Return to Motion for Summary Reversal.pdf; Ex. 6 -- CPD Field Contact_Redacted.pdf; Ex. 1 -- Order Granting Mot. to Dismiss.pdf; Ex. 2 -- Compl.pdf; Ex. 3 -- Dr. Ndunda (mother) Affidavit_Redacted.pdf; Ex. 4 -- Thomas Ndunda (father) Affidavit.pdf; Ex. 5 -- Aff. of Kelly Freshman w Ex. A (screenshot).pdf

Attached please find **Respondents' Return to Appellant's Motion for Summary Reversal and Vacatur of the Order of Dismissal on the Ground of Extrinsic Fraud on the Tribunal or, in the Alternative, to Supplement the Record Pursuant to Rule 212, SCACR** and **the Exhibits attached thereto**.

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