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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Honorable Circuit Court Judge Dianne S. Goodstein

Case No. 2026-000034

Stephanie Lehman,

Respondent,

v.

Berkeley County School District and
Anne-Magill Payne, individually, and
as an agent of Berkeley County School
District,

of whom Berkeley County School District

is Appellant,

Appellant.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Stephanie Lehman

Plaintiff,

vs.

Berkeley County School District and Anne-
Magill Payne, individually, and as an agent of
Berkeley County School District,

Defendants.

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

Case No.: 2024-CP-08-03367

ORDER**BACKGROUND**

This is an employment case where Plaintiff, Stephanie Lehman (“Plaintiff”) alleges she was constructively discharged from her employment as a teacher with the Berkeley County School District (“BCSD”) subsequent to her filing a claim for workers’ compensation benefits. Plaintiff also asserts a claim for defamation based on the false and defamatory statements and insinuations made by Defendant Anne-Magill Payne (“Payne”), individually, and as an agent of BCSD.

On January 7, 2025, Defendant BCSD filed its Motion to Strike and for More Definite Statement. On February 28, 2025, Defendant Payne filed a Motion for More Definite Statement. For the reasons below, Defendants’ Motion for More Definite Statement is **DENIED**. Further, Defendant BCSD’s Motion to Strike is **DENIED**.

**FACTS ALLEGED IN THE COMPLAINT AS TO WORKERS’ COMPENSATION
RETALIATION**

Plaintiff was hired by BCSD as a physical education teacher and athletic coach in March 2019 and was assigned to Phillip Simmons High School (PSHS) (Am. Compl. ¶5). On or about October 13, 2023, Plaintiff alleges she was violently attacked by a student at PSHS. The allegations continue to say the student used a partially or fully-filled 40 oz stainless steel “Hydroflask-style” metal water bottle to strike Plaintiff in the head and face, causing severe injuries and a concussion (Am. Compl. ¶6–Am. Compl. ¶11). On or about October 18, 2023, Plaintiff filed a workers’ compensation claim

for the injuries she sustained related to the alleged October attack (Am. Compl. ¶13).

On or about October 31, 2023, when she alleges she was recovering from a concussion and suffering the effects of post-concussion syndrome, Plaintiff was assigned what was identified as a “light-duty assignment” to work in an elementary school cafeteria as a food service technician (Am. Compl. ¶ 14). Defendant was aware of Plaintiff’s restricted ability to perform the duties of a food service technician, and her sensitivity to light and noise associated with an elementary school cafeteria but still required her to work in this capacity. Moreover, Defendant informed Plaintiff that if she did not accept this position, she would not be eligible for workers’ compensation benefits. (Am. Compl. ¶ 16).

On November 29, 2023, Plaintiff was placed on administrative leave due to an accusation that she failed to report her working time and was absent without approval (Am. Compl. ¶19). On January 4, 2024, the District determined Plaintiff had committed no policy violations, yet she was not permitted to return to work and was placed on unpaid leave (Am. Compl. ¶20–Am. Compl. ¶24).

On February 9, 2024, Plaintiff received notice of termination for allegedly failing to report to Sedgefield Middle School (Am. Compl. ¶25). She objected to both her termination and reassignment. Although her termination was rescinded, she was not restored to her prior post and her duties as an athletic coach were removed (Am. Compl. ¶27). The Complaint alleges that, in retaliation for filing a workers’ compensation claim, Defendant stripped Plaintiff of her role as a golf coach, removed her from her role as a teacher at PSHS, which ultimately culminated in her constructive discharge from BCSD.

FACTS ALLEGED IN THE COMPLAINT AS TO DEFAMATION

In the Amended Complaint, Plaintiff alleges Payne is the principal’s secretary at PSHS (Am. Compl. ¶33). Plaintiff claims Payne, in her individual capacity, and as an agent of BCSD, made false and defamatory statements about Plaintiff. (Am. Compl. ¶33, Am. Compl. ¶56). Such statements included calling Plaintiff a liar, accusing her of faking injuries, stealing time, and repeatedly referring

to her as a “bitch”, all in the presence of students, staff, and parents (Am. Compl. ¶33, 56). Furthermore, Plaintiff alleges Payne told others that she was “faking” the injuries she suffered in the October attack and that Plaintiff was stealing time by not properly completing her timesheets (Am. Compl. ¶33). These statements were made during school hours and often in the presence of students, parents, and other staff members (Am. Compl. ¶33). Plaintiff further asserts that Payne, both individually and as an agent of the District, knowingly made false statements in front of other students, parents, and other staff members that damaged Plaintiff’s professional reputation and caused emotional and financial harm (Am. Compl. ¶33, Am. Compl. ¶55). Plaintiff alleges these statements occurred during her employment with BCSD in 2023 and 2024 (Am. Compl. ¶ 20, 29, 33).

LEGAL STANDARD

I. MOTION FOR MORE DEFINITE STATEMENT

“A pleading which sets forth a cause of action, [...], shall contain (1) a short and plain statement of the grounds including facts and statutes upon which the court’s jurisdiction [...], (2) **a short and plain statement of the facts showing that the pleader is entitled to relief**, and (3) a prayer or demand for judgment for the relief to which he deems himself entitled [...].” Rule 8, SCRCP (emphasis added).

“If a pleading to which a responsive pleading is permitted is **so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading**, he may move for a more definite statement before interposing his responsive pleading.” Rule 12, SCRCP (emphasis added).

“In pleading libel or slander **it is not necessary to state in the pleading any extrinsic facts for the purpose of showing the application to the pleader of the defamatory matter out of which the action arose; but it is sufficient to state generally that the same was published or spoken concerning the pleader.**” Rule 9(h), SCRCP (emphasis added).

II. MOTION TO STRIKE

“A motion to strike under Rule 12(f), SCRCP, which challenges a theory of recovery in the complaint, is in the nature of a motion to dismiss under Rule 12(b)(6), SCRCP.” *Grazia v. S.C. State Plastering, LLC*, 390 S.C. 562, 567, 703 S.E.2d 197, 199 (2010) (Citing *McCormick v. England*, 328 S.C. 627, 632, 494 S.E.2d 431, 433 (Ct. App. 1997)). “In reviewing a ruling on a motion to dismiss a claim, this Court must base its decision solely on the allegations set forth on the face of the complaint.” *Id.* (citing *McCormick*, at 632-33, 494 S.E.2d at 433). “The motion cannot be sustained if the facts alleged and the inferences reasonably deducible therefrom would entitle the plaintiff to any relief on any theory of the case.” *Id.* at 633, 494 S.E.2d at 433 (citing *Dye v. Gainey*, 320 S.C. 65, 463 S.E.2d 97 (Ct. App. 1995)). “The question is whether in the light most favorable to the plaintiff, and with every reasonable doubt resolved in her behalf, the complaint states any valid claim for relief. The cause of action should not be struck merely because the court doubts the plaintiff will prevail in the action.” *Id.* at 633, 494 S.E.2d at 433-34.

ANALYSIS

I. DEFENDANT’S MOTION FOR A MORE DEFINITE STATEMENT

There is no dispute that “[t]he elements of defamation include: (1) a false and defamatory statement concerning another; (2) an unprivileged publication to a third party; (3) fault on the part of the publisher; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.” *McNeil v. S.C. Dep’t of Corr.*, 404 S.C. 186, 195, 743 S.E.2d 843, 848 (Ct. App. 2013) (quoting *Murray v. Holnam, Inc.*, 344 S.C. 129, 139, 542 S.E.2d 743, 748 (Ct. App. 2001)).

The Amended Complaint meets the pleading standards under Rules 8 and 9 SCRCP.

Therefore, Defendant’s Motion for A More Definite Statement is **DENIED**.

II. DEFENDANT BCSD’S MOTION TO STRIKE

A. Plaintiff’s request for a jury trial is proper.

“Where the retaliatory discharge of an at-will employee constitutes violation of a clear mandate of public policy, a cause of action in tort for wrongful discharge arises.” *Ludwick v. This Minute of Carolina, Inc.*, 287 S.C. 219, 220, 337 S.E.2d 213, 213 (1985) “Under *Ludwick* an action for wrongful discharge is an action in tort.” *Culler v. Blue Ridge Elec. Coop.*, 309 S.C. 243, 246, 422 S.E.2d 91, 93 (1992) (citing *Ludwick*, at 225, 337 S.E.2d at 216). “An action in tort is generally an action at law [...] unless equitable relief is sought. *Id.* (citing *Mortgage Loan Co. v. Townsend*, 156 S.C. 203, 152 S.E. 878 (1930)). “The ‘public policy’ exception in *Ludwick* extends to ‘violation of a clear mandate of public policy.’” *Culler v. Blue Ridge Elec. Coop.*, 309 S.C. 243, 246, 422 S.E.2d 91, 92 (1992).

Here, Plaintiff’s Amended Complaint seeks compensatory damages in the form of lost back and future wages, income, and benefits, and expenses associated with finding other work. Plaintiff further seeks damages for severe psychological harm, emotional distress, anxiety, pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, embarrassment, humiliation, loss to professional standing, character and reputation, physical and personal injuries, and further seeks attorney’s fees and costs and prejudgment interest.

Plaintiff’s workers’ compensation retaliation claim is akin to a wrongful discharge claim in violation of public policy. The Court in *Ludwick* extended the public policy exception with respect to wrongful discharge to include “violation[s] of a clear mandate of public policy.” Here, the workers’ compensation statute (42-1-10) establishes the clear mandate of public policy that is required to plead a cause of action for wrongful discharge.

Notably, there have been other cases where there have been jury trials on claims of workers’ compensation retaliation. See, *Chastain v. Owens Carolina, Inc.*, 310 S.C. 417, 426 S.E.2d 834 (Ct. App. 1993) (plaintiff employee brought a statutory action seeking lost wages and reinstatement in a job from which he was discharged by defendant employer in retaliation for filing a claim under the Workers' Compensation law. The action was tried to a jury on the issue of whether

the discharge was retaliatory, and the jury found for the employee); *Horn v. Davis Elec. Constructors, Inc.*, 307 S.C. 559, 561, 416 S.E.2d 634, 635 (1992) (“... the trial court construed Section 41-1-80 to permit the jury to decide only whether a violation of the statute had occurred and in the event of a verdict for the plaintiff, reinstatement and payment of back wages were mandatory).

B. Plaintiff’s remedies are not limited to reinstatement.

Even if Plaintiff’s claims were limited to reinstatement the factfinder would still be entitled to award other remedies in situations where reinstatement is not feasible or practical. See *Drew v. Waffle House, Inc.*, 351 S.C. 544, 550, 571 S.E.2d 89, 92 (2002) (“front pay is awarded as a complement or as an alternative to reinstatement. If reinstatement is shown to be infeasible, for instance because of a hostile atmosphere, front pay may be awarded in lieu thereof or to reimburse the employee until the time of reinstatement.”) In fact, the Court in *Drew* held:

In considering the issue of front pay, federal courts have recognized its speculative character and therefore give wide latitude to the trial court. [...] As stated by the Fourth Circuit Court of Appeals: ‘The infinite variety of factual circumstances that can be anticipated do not render any remedy of front pay susceptible to legal standards for awarding damages.’ [...]. Accordingly, where the trial court has used permissible bases for awarding front pay, no abuse of discretion will be found [...]. The factors that may be considered in awarding front pay include the length of prior employment, the permanency of the position held, the nature of the work, and the age and physical condition of the employee, along with other factors affecting the employer-employee relationship. [...] Evidence of future employment prospects may also be considered.

Drew v. Waffle House, Inc., 351 S.C. 544, 549-50, 571 S.E.2d 89, 92 (2002) (internal citation omitted). Here, based on the allegations in the Amended Complaint, the Court could determine that Plaintiff’s reinstatement may be impractical based on the workplace environment that would be created with her return to work.

Therefore, Defendant BCSD’s Motion to Strike is **DENIED**.

CONCLUSION

For the reasons stated above, the Court **DENIES** Defendant BCSD’s Motion to Strike.

Further, the Court **DENIES** Defendants' Motion for a More Definite Statement.

The Honorable Diane S. Goodstein
Circuit Court Judge

Charleston, South Carolina



Berkeley Common Pleas

Case Caption: Stephanie Lehman VS School District Berkeley County
Case Number: 2024CP0803367
Type: Master/Order/Other

It is so Ordered!

s/Diane S. Goodstein

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FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP0803367

Stephanie Lehman
PLAINTIFF(S)

School District Berkeley County et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

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

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

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

As to the Defendant Berkeley County School District's Motion to Alter or Amend, the Court finds no new information or arguments have been presented that would warrant any change or modification to its original decision. Provided that no novel issues have been raised that merit further consideration, the Defendant's Motion to Alter or Amend is DENIED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/08/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

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Court Reporter:

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

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Berkeley Common Pleas

Case Caption: Stephanie Lehman VS School District Berkeley County
Case Number: 2024CP0803367
Type: Order/Electronic Form 4

It is so Ordered!

s/Diane S. Goodstein

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STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Stephanie Lehman

Plaintiff,

vs.

Berkeley County School District and Anne-Magill Payne individually, and as an agent of Berkeley County School District,

Defendants.

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

Case No.: 2024-CP-08-03367

AMENDED SUMMONS

TO: DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the Complaint on the attorneys for Plaintiff at their office located 171 Church Street, Suite 160, Charleston, South Carolina, 29401, within thirty days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

FERGUSON LAW AND MEDIATION, LLC
s/ Emmanuel J. Ferguson, Sr.

Emmanuel J. Ferguson, Sr.
171 Church Street, Suite 160
Charleston, South Carolina 29401
(843) 491-4890 telephone
Email: emmanuel@fergusonlaborlaw.com
Attorney for Plaintiff

December 3, 2024
Charleston, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Stephanie Lehman

Plaintiff,

vs.

Berkeley County School District and Anne-Magill Payne, individually, and as an agent of Berkeley County School District,

Defendants.

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

Case No.: 2024-CP-08-03367

AMENDED COMPLAINT
(JURY TRIAL DEMANDED)

TO: DEFENDANTS ABOVE-NAMED:

Plaintiff, Stephanie Lehman, by and through her undersigned attorney, complains of Defendant and would respectfully show to the Court:

1. That Plaintiff, Stephanie Lehman, ("Lehman") is a citizen and resident of Charleston County, South Carolina.
2. Defendant Berkeley County School District (the "District"), is a governmental agency and/or political subdivision of the State of South Carolina, as defined in S.C. Code Ann. § 15-78-10, existing under the laws of the State of South Carolina, and is located in Berkeley County, South Carolina.
3. Upon information and Belief Defendant Anne-Magill Payne is a citizen and resident of Berkeley County, South Carolina.
4. This Court has jurisdiction over this action.
5. In or about March 2019, Plaintiff was hired by Defendant as physical education ("P.E.") teacher and athletic coach. Plaintiff was assigned to teach and coach at Phillip Simmons High School located in Berkeley County ("PSHS").
6. On October 13, 2023, Ms. Lehman was the victim of a violent and unprovoked attack by a

student at PSHS while in a hallway located on PSHS campus (the “October Attack”).

7. During the October Attack, Ms. Lehman was threatened by the student who attacked her. Ms. Lehman was also called a “bitch,” and other aggressive language was directed to Ms. Lehman by the student.

8. After the student made the above-mentioned threats and verbal attacks against Ms. Lehman, the student aggressively approached Ms. Lehman and came within three (3) feet of her before violently and forcefully striking Ms. Lehman with a metal water bottle.

9. Upon information and belief, the water bottle used by the student was consistent with a forty (40) ounce (or larger) “Hydroflask” brand, stainless steel, double-wall vacuum insulated bottle. The bottle used by the student was also partially or fully filled with water.

10. The student used the water bottle to strike Ms. Lehman’s unguarded head and face with such force that caused her to suffer severe injuries to her head and face area.

11. Ms. Lehman, concerned for the safety of the other students in the area, instinctively turned away from the threat of the attack and moved to a place where bystanders would not observe the physical result of the gruesome attack on Ms. Lehman’s body.

12. As a result of the student’s violent attack, Ms. Lehman also suffered a concussion.

13. On or about October 18, Ms. Lehman filed a claim for benefits under the South Carolina Workers’ Compensation Act (S.C. Code 42-1-10 *et. seq.*).

14. On or about October 31, 2023, while still recovering from a concussion and suffering the effects of post-concussion syndrome, Ms. Lehman was assigned what was identified as a “light duty assignment” to work in an elementary school cafeteria as a food service technician.

15. The purported “light duty assignment” was not consistent with the kind of work Ms. Lehman was able to perform due to the symptoms related to the concussion she received as a result

of the October Attack.

16. Defendant was aware of Ms. Lehman's restricted ability to perform the duties of a food service technician and still required her to work as a food service technician. Moreover, Defendant informed Ms. Lehman that if she did not accept this position, she would not be eligible for workers' compensation benefits.

17. Ms. Lehman attempted to work as a food service technician but suffered severe headaches due to the atmosphere of an active middle school cafeteria and the constant movement needed to perform the duties assigned.

18. On or about November 1, 2023, Plaintiff was given a different light duty assignment doing administrative work at PSHS. However, Plaintiff's light duty assignment also included doing "custodial tasks as needed."

19. On or about November 29, 2023, Ms. Lehman received notice that she was being placed on administrative leave (the "November 29, 2023, Letter").

20. According to the November 29, 2023, Letter Ms. Lehman was accused of failing to accurately report the time and being absent without approval.

21. Ms. Lehman objected to being placed on leave and denied the allegations contained in the November 29, 2023, Letter.

22. On January 4, 2024, the District determined that Ms. Lehman engaged in no violations of District policy and was, in fact, accurately reporting her time. The District also determined that Ms. Lehman was not absent without approval.

23. The District is not aware of Ms. Lehman violating any PSHS policies while she was on any light duty assignment while employed with the District.

24. Even after the District determined Ms. Lehman did not violate any policy, Ms. Lehman

was still not allowed to return to work. Further, Ms. Lehman's paid administrative leave status was converted to unpaid leave.

25. On or about February 9, 2024, Ms. Lehman was notified her employment with the District was terminated. The reason given for the employment decision was Ms. Lehman's purported "failure to report to Sedgefield Middle School on February 9, 2024." (the "February 9, 2024, Letter").

26. When Ms. Lehman received the February 9, 2024, Letter, she contacted the District and learned that she was sent a letter dated February 2, 2024 (the "February 2, 2024, Letter").

27. According to the February 2, 2024, Letter, the District transferred Ms. Lehman to work at Sedgefield Elementary School instead of her original position at PSHS.

28. The February 2, 2024, Letter also stated the District attempted to contact Ms. Lehman by telephone to inform her of this transfer.

29. The February 2, 2024, Letter contains false information including its claim the District attempted to contact Ms. Lehman by telephone prior to February 9, 2024, to inform her she was to report to Sedgefield Middle School.

30. Ms. Lehman objected to her termination and her transfer the Sedgefield Elementary School as a P.E. teacher.

31. The District rescinded Ms. Lehman's termination, but maintained her transfer to Sedgefield Middle School. The District further removed Ms. Lehman from her position as an athletic coach at PSHS.

32. After the October Attack, an employee of PSHS made false and defamatory statements about Plaintiff.

33. Defendant Anne-Magill Payne is the principal's secretary at PSHS. Ms. Payne made defamatory comments about Plaintiff, including but not limited to calling Plaintiff a liar, and saying she was "faking" her injuries and symptoms. Ms. Payne also said Plaintiff was stealing time

by not properly completing her timesheets. Moreover, Ms. Payne called Plaintiff a “Bitch” on multiple occasions. These statements were made during school hours and often in the presence of students, parents, and other staff members.

34. Payne made these statements about Plaintiff and published them to third parties knowing they were false.

**FOR A FIRST CAUSE OF ACTION
(Workers’ Compensation Retaliation)**

35. The allegations of the preceding paragraphs are repeated and incorporated herein by reference.

36. On or about October 18, Ms. Lehman filed a claim for benefits under the South Carolina Workers’ Compensation Act (S.C. Code 42-1-10 *et. seq.*).

37. Subsequent to her institution of workers’ compensation proceedings, Ms. Lehman was subject to retaliation by the District by way of the following:

- a. her discharge from the District;
- b. her demotion through the removal of her duties as an athletic coach at PSHS;
- c. her demotion through her transfer to Sedgefield middle school;
- d. the District making attempts to force Ms. Lehman to resign by way knowingly and intentionally placing her in an environment that would exacerbate her post-concussion symptoms;
- e. the District making baseless and false accusations that Plaintiff violated District policies;
- f. placing Ms. Lehman on administrative leave;
- g. the District threatened to deny Plaintiff the benefits due to her under the South Carolina Workers’ Compensation Act; and,
- h. other acts designed to punish Ms. Lehman for filing for benefits under the Workers’

Compensation Act.

38. As a result of Defendant's actions, Ms. Lehman has suffered damages in the form of severe psychological harm, emotional distress, anxiety, pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, embarrassment, humiliation, loss of educational standing, character and reputation, physical and personal injuries, and further seeks attorneys' fees and costs and prejudgment interest.

**FOR A SECOND CAUSE OF ACTION
(Defamation)**

54. The allegations of the preceding paragraphs are repeated and incorporated herein by reference.

55. Defendant District and Payne, in her individual capacity and as agent of the District, made false and defamatory statements to third parties, including, but not limited to, members of the public, and other District employees about Plaintiff.

56. Defendant District and Payne, in her individual capacity and as agent of the District, made false and malicious statements and insinuations about Plaintiff that falsely claimed Plaintiff was Plaintiff was a liar, a "bitch," and other statements that she was unfit in her business or profession as a teacher. These statements and actions were defamatory.

58. Defendant District and Payne, in her individual capacity and as agent of the District, knowingly made false and malicious statements and insinuations about Plaintiff.

59. As a direct and proximate result of the actions Defendants, Plaintiff sustained damages in the form of lost back and future wages, income and benefits, expenses associated with finding other work, and has suffered severe psychological harm, emotional distress, anxiety, pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, embarrassment, humiliation, loss to professional standing, character and reputation, physical and personal injuries, and further seeks attorney's fees and costs and prejudgment interest.

WHEREFORE, Plaintiff requests a jury trial and prays this Court enter an Order granting judgment against Defendant in an amount to be determined by the trier of fact and for such other and further relief as this Court deems just and proper.

RESPECTFULLY SUBMITTED,

FERGUSON LAW AND MEDIATION, LLC
s/ Emmanuel J. Ferguson, Sr.
Emmanuel J. Ferguson, Sr.
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Attorney for Plaintiff

December 3, 2024
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	CASE NO.: 2024-CP-08-03367
	)	
Stephanie Lehman,	)	
	)	
Plaintiff,	)	
	)	DEFENDANT BERKELEY
vs.	)	COUNTY SCHOOL DISTRICT'S
	)	MOTION TO STRIKE AND FOR
Berkeley County School District and	)	MORE DEFINITE STATEMENT
Anne-Magill Payne individually, and as	)	
an agent of Berkeley County School	)	
District,	)	
	)	
Defendants.	)	
	)	

Pursuant to Rule 12(f) of the South Carolina Rules of Civil Procedure, Defendant Berkeley County School District (the "BCSD") moves to strike certain claims and allegations in Plaintiff Stephanie Lehman's ("Plaintiff") Amended Complaint filed December 3, 2024. Additionally, pursuant to Rule 12(e) of the South Carolina Rules of Civil Procedure, the BCSD moves for a more definite statement as to Plaintiff's Amended Complaint. In support of this motion, the BCSD submits the following:

A. Rule 12(f), SCRCP.

1. Rule 12(f), SCRCP, provides that "[u]pon motion pointing out the defects complained of . . . the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent or scandalous matter."

2. This case arises from Plaintiff's employment with the BCSD, and Plaintiff's Amended Complaint asserts a cause of action for workers' compensation retaliation. According to Plaintiff, the BCSD's actions following a workers' compensation injury Plaintiff sustained on

school property in October 2023 have caused Plaintiff to suffer a litany of alleged damages for which she wants compensation.

3. Plaintiff's claim for workers' compensation retaliation is governed by S.C. Code Ann. § 41-1-80, that provides in pertinent part: "[a]ny employer who violates any provision of this section is liable in a civil action for lost wages suffered by an employee as a result of the violation, and an employee discharged or demoted in violation of this section is entitled to be reinstated to his former position. The burden of proof is upon the employee." As a result, claims for workers' compensation retaliation under the statute are equitable and are limited to the remedies of reinstatement and the payment of back wages. *Wallace v. Milliken & Co.*, 305 S.C. 118, 120, 406 S.E.2d 358, 359 (1991). As a result, a retaliatory discharge claim under § 41-1-80 is an equity action tried without a jury. *Hinton v. Designer Ensembles, Inc.*, 343 S.C. 236, 241, 540 S.E.2d 94, 96 (2000).

4. Despite claims for workers' compensation retaliation being equitable in nature, Plaintiff's Amended Complaint seeks legal remedies for damages other than reinstatement and back wages "in the form of severe psychological harm, emotional distress, anxiety, pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, embarrassment, humiliation, loss of education standing, character and reputation, physical and personal injuries, and . . . attorneys' fees and costs and prejudgment interest." (Amended Compl. ¶ 38.) Because the damages noted above that Plaintiff seeks are not recoverable under § 41-1-80, those alleged damages should be stricken from the Amended Complaint, particularly as to Paragraph 38 of the Amended Complaint. *See Robinson v. Code*, 384 S.C. 582, 682 S.E.2d 495 (Ct. App. 2009) (affirming trial court's granting of motion to strike certain allegations relating to negligence because underlying statute did not provide for recovery). Therefore, based on the foregoing, the BCSD respectfully

requests that the Court strike those portions of Plaintiff's Amended Complaint demanding remedies and damages beyond those available under § 41-1-80.

B. Rule 12(e), SCRCp.

1. Rule 12(e), SCRCp, provides that, “[i]f a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, he may move for a more definite statement before interposing his responsive pleading. The motion shall point out the defects complained of and the details desired.”

2. ““The elements of defamation include: (1) a false and defamatory statement concerning another; (2) an unprivileged publication to a third party; (3) fault on the part of the publisher; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.”” *McNeil v. S.C. Dep't of Corr.*, 404 S.C. 186, 195, 743 S.E.2d 843, 848 (Ct. App. 2013) (quoting *Murray v. Holnam, Inc.*, 344 S.C. 129, 139, 542 S.E.2d 743, 748 (Ct. App. 2001)). To support her defamation claim, Plaintiff must identify in her Amended Complaint the *specific* statements she alleges are defamatory. *See McNeil* at 195, 743 S.E.2d at 848 (dismissing a defamation claim because plaintiff “did not set forth with any specificity what the alleged false statements were.”); *Harris v. Tietex Int'l Ltd.*, 417 S.C. 533, 541, 790 S.E.2d 411, 416 (Ct. App. 2016), *reh'g denied* (Sept. 23, 2016), *cert. denied* (Sept. 8, 2017) (dismissing plaintiff's defamation claim because plaintiff “has not identified the specific defamatory statements on which he bases his defamation claim or claims.”); *McBride v. Sch. Dist. of Greenville Cty.*, 389 S.C. 546, 562, 698 S.E.2d 845, 853 (Ct. App. 2010) (holding the plaintiff's description of alleged defamatory statements was too vague to be evaluated).

3. Plaintiff must identify the individuals she alleges *made and heard* the statements she alleges are defamatory. “A defendant ‘cannot be expected to defend against an

allegation that [the defendant] defamed Plaintiff by making a statement heard by unknown persons at an unknown place at an unknown time.” *Doe v. McGowan*, No. 2:16-CV-00777-RMG-MGB, 2017 WL 573619, at *3 (D.S.C. Jan. 5, 2017), *report and recommendation adopted*, No. 2:16-CV-00777-RMG, 2017 WL 571487 (D.S.C. Feb. 13, 2017) (quoting *Colleton v. Charleston Water Sys.*, 225 F. Supp. 3d 362, 369 (D.S.C. 2016)). As focused upon by the court in *Doe*, plaintiff’s complaint did “not allege with specificity the time, place, medium, or listener of any of the alleged defamatory statements.” *Id.* Therefore, the *Doe* court concluded “the defamation claims against [defendants] be dismissed . . .” *Id.* “By requiring the plaintiff to set forth in his complaint the name or names of the persons to whom the defamatory words concerning the plaintiff were spoken is not done for the purpose of requiring the plaintiff to disclose to his adversary the names of the witnesses that he relies on to prove to whom the defamatory words were spoken, but is to limit the issues to the particular person or persons named in the complaint.” *Tucker v. Pure Oil Co. of Carolinas*, 191 S.C. 60, 3 S.E.2d 547, 549 (1939). “The [defendant] being put on notice of this by the complaint, [is] enabled to answer the charge made and prepare a defense thereto.” *Id.*

4. Plaintiff should be required to provide the following additional information in her Amended Complaint:

- a. a list of *all* alleged defamatory statements, whether written or verbal, or defamatory insinuations, as opposed to alleging some statements but then asserting Plaintiff’s defamation claim is “not limited to” those statements and/or insinuations specifically alleged;
- b. as to the allegation Defendant Anne-Magill Payne (“Payne”), or any other BCSD employee or agent, called Plaintiff a “liar,” Plaintiff should state when and where the statement was made by Payne or others and to whom specifically Payne or others made the statement;

c. as to the allegation Payne, or any other BCSD employee or agent, stated Plaintiff was “faking” her injuries, Plaintiff should state when and where the statement was made by Payne or others and to whom specifically Payne or others made the statement;

d. as to the allegation Payne, or any other BCSD employee or agent, stated Plaintiff was “stealing time” and/or “not properly completing her timesheets,” Plaintiff should state when and where the statement was made by Payne or others and to whom specifically Payne or others made the statement; and

e. as to the allegation Payne, or any other BCSD employee or agent, stated Plaintiff was a “Bitch” on “multiple occasions,” Plaintiff should state when and where the statement was made by Payne or others and to whom specifically Payne or others made the statement.

The BCSD will submit a memorandum of law in support of the motion prior to a hearing.

Respectfully submitted,

s/ Bob J. Conley

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ATTORNEYS FOR DEFENDANT
BERKELEY COUNTY SCHOOL
DISTRICT

Charleston, South Carolina
January 7, 2025

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Stephanie Lehman

Plaintiff,

vs.

Berkeley County School District and Anne-Magill Payne, individually, and as an agent of Berkeley County School District,

Defendants.

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

Case No.: 2024-CP-08-03367

**PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO DEFENDANTS'
MOTION TO STRIKE AND
MOTION FOR MORE DEFINITE
STATEMENT**

BACKGROUND

This is an employment case where Plaintiff, Stephanie Lehman ("Ms. Lehman") alleges she was constructively discharged from her employment as a teacher with the Berkeley County School District ("BCSD") subsequent to her filing a claim for workers' compensation benefits. Ms. Lehman also asserts a claim for defamation based on the false and defamatory statements and insinuations made by Defendant Anne-Magill Payne ("Payne"), individually, and as an agent of BCSD.

On January 7, 2025, Defendant BCSD filed its Motion to Strike and for More Definite Statement. On February 28, 2025, Defendant Payne filed a Motion for More Definite Statement. For the reasons below, Defendants' Motion for More Definite Statement should be denied. Further, Defendant BCSD's Motion to Strike should also be denied.

**FACTS ALLEGED IN THE COMPLAINT AS TO WORKERS' COMPESATION
RETALIATION**

Ms. Lehman was hired by BCSD as a physical education teacher and athletic coach in March 2019 and was assigned to Phillip Simmons High School (PSHS) (Am. Compl. ¶5). On or about October 13, 2023, Ms. Lehman was violently attacked by a student at PSHS. The student used a partially or fully filled 40 oz stainless steel "Hydroflask-style" metal water bottle to strike Lehman in the head and face, causing severe injuries and a concussion (Am. Compl. ¶6–Am. Compl. ¶11). On or about October 18, 2023, Ms. Lehman filed a workers' compensation claim for the injuries she

sustained related to the October attack (Am. Compl. ¶13).

On or about October 31, 2023, while still recovering from a concussion and suffering the effects of post-concussion syndrome, Ms. Lehman was assigned what was identified as a “light duty assignment” to work in an elementary school cafeteria as a food service technician. (Am. Compl. ¶ 14). Defendant was aware of Ms. Lehman’s restricted ability to perform the duties of a food service technician but still required her to work as a food service technician. Moreover, Defendant informed Ms. Lehman that if she did not accept this position, she would not be eligible for workers’ compensation benefits. (Am. Compl. ¶ 16).

On November 29, 2023, she was placed on administrative leave, accused of failing to report time and being absent without approval (Am. Compl. ¶19). On January 4, 2024, the District determined Ms. Lehman had committed no policy violations, yet she was not permitted to return and was placed on unpaid leave (Am. Compl. ¶20–Am. Compl. ¶24).

On February 9, 2024, Lehman received notice of termination for allegedly failing to report to Sedgefield Middle School (Am. Compl. ¶25). She objected to both her termination and reassignment. Although her termination was rescinded, she was not restored to her prior post and was removed from coaching duties (Am. Compl. ¶27). Due to the hostile environment and in retaliation for filing a workers compensation claim, Defendant stripped Ms. Lehman of her role as a golf coach, removed her from her role as a teacher at PSHS, which ultimately culminated in her constructive discharge from BCSD.

FACTS ALLEGED IN THE COMPLAINT AS TO DEFAMATION

In the Amended Complaint, Ms. Lehman alleges Payne is the principal’s secretary at PSHS (Am. Compl. ¶33). Ms. Lehman claims Payne, in her individual capacity, and as an agent of BCSD, made false and defamatory statements about Ms. Lehman. (Am. Compl. ¶33, Am. Compl. ¶56). Such statements included calling Lehman a liar, accusing her of faking injuries, stealing time, and repeatedly referring to her as a “bitch”, all in the presence of students, staff, and parents (Am. Compl.

¶33, 56). Furthermore, Ms. Lehman alleges Payne told others that She was “faking” the injuries she suffered in the October attack and that Ms. Lehman was stealing time by not properly completing her timesheets (Am. Compl. ¶33). These statements were made during school hours and often in the presence of students, parents, and other staff members (Am. Compl. ¶33). Ms. Lehman further asserts that Payne, both individually and as an agent of the District, made knowingly false statements that damaged Lehman’s professional reputation and caused emotional and financial harm in front of other students, parents, and other staff members (Am. Compl. ¶33, Am. Compl. ¶55).

LEGAL STANDARD

I. MOTION FOR MORE DEFINITE STATEMENT

“A pleading which sets forth a cause of action, [...], shall contain (1) a short and plain statement of the grounds including facts and statutes upon which the court's jurisdiction [...], (2) *a short and plain statement of the facts showing that the pleader is entitled to relief*, and (3) a prayer or demand for judgment for the relief to which he deems himself entitled [...].” Rule 8, SCRCPP (emphasis added).

“If a pleading to which a responsive pleading is permitted is *so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading*, he may move for a more definite statement before interposing his responsive pleading.” Rule 12, SCRCPP (emphasis added).

“In pleading libel or slander *it is not necessary to state in the pleading any extrinsic facts for the purpose of showing the application to the pleader of the defamatory matter out of which the action arose; but it is sufficient to state generally that the same was published or spoken concerning the pleader.*” Rule 9(h), SCRCPP (emphasis added).

II. MOTION TO STRIKE

“A motion to strike under Rule 12(f), SCRCPP, which challenges a theory of recovery in the complaint, is in the nature of a motion to dismiss under Rule 12(b)(6), SCRCPP.” *Grazia v. S.C. State Plastering, LLC*, 390 S.C. 562, 567, 703 S.E.2d 197, 199 (2010) (Citing *McCormick v. England*, 328

S.C. 627, 632, 494 S.E.2d 431, 433 (Ct. App. 1997)). “In reviewing a ruling on a motion to dismiss a claim, this Court must base its decision solely on the allegations set forth on the face of the complaint.” *Id.* (citing *McCormick*, at 632-33, 494 S.E.2d at 433). “The motion cannot be sustained if the facts alleged and the inferences reasonably deducible therefrom would entitle the plaintiff to any relief on any theory of the case.” *Id.* at 633, 494 S.E.2d at 433 (citing *Dye v. Gainey*, 320 S.C. 65, 463 S.E.2d 97 (Ct. App. 1995)). “The question is whether in the light most favorable to the plaintiff, and with every reasonable doubt resolved in her behalf, the complaint states any valid claim for relief. The cause of action should not be struck merely because the court doubts the plaintiff will prevail in the action.” *Id.* at 633, 494 S.E.2d at 433-34.

ARGUMENT

I. Ms. Lehman has sufficiently pled a claim for defamation against Defendants.

There is no dispute that “[t]he elements of defamation include: (1) a false and defamatory statement concerning another; (2) an unprivileged publication to a third party; (3) fault on the part of the publisher; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.” *McNeil v. S.C. Dep’t of Corr.*, 404 S.C. 186, 195, 743 S.E.2d 843, 848 (Ct. App. 2013) (quoting *Murray v. Holnam, Inc.*, 344 S.C. 129, 139, 542 S.E.2d 743, 748 (Ct. App. 2001)).

The Amended Complaint meets the pleading standards under Rules 8 and 9 SCRPC.

A. False and Defamatory Statement

Here, the Amended Complaint alleges Defendants spread false statements about Ms. Lehman being a “liar” and “bitch,” who was “faking her injuries.” (Am. Compl. Am. Compl. ¶ 35, 36). The Amended Complaint alleges these statements were made by Payne in an effort to make her seem untrustworthy, and manipulative, thereby making her unfit to work at as a teacher. Calling Ms. Lehman a “bitch” is not just vulgar—it’s a gendered insult used to diminish and discredit women, especially those who assert boundaries or seek justice. In doing so, Payne accuses Ms. Lehman of

being irrational, vindictive, and untrustworthy. Further, by Payne saying Ms. Lehman is “faking” the injuries she sustained at work infers Ms. Lehman is making false claims that would affect her professional standing as a teacher. This directly undermines her credibility— an extremely serious and harmful accusation for a person in the teaching profession.

B. Publication and Fault

Ms. Lehman’s Amended Complaint alleges Payne, in her individual capacity and as an agent of BCSD, made the defamatory statements in the presence of students, staff, and parents (*Am. Compl.* ¶33, 56). Ms. Lehman is not required to identify the specific individuals who heard these statements. See, *Cot v. Univ. of S.C.*, 2017 S.C. C.P. LEXIS 345, *2 C/A NO. 2016-CP-10-5082 (denying defendants’ motion to dismiss plaintiff’s defamation claim alleging Defendants “made false statements that were adopted by [defendants] USC and MUSC to third parties regarding plaintiff”); *Outlaw v. Cerbelli*, 2021 S.C. C.P. LEXIS 1547, *6-7 C/A NO. 2020-CP-40-04659 (denying defendant’s motion to dismiss plaintiff’s defamation claim alleging defendants published false and defamatory statements to “the neighbors”). Therefore, Defendants’ Motion for a More Definite statement should be denied.

C. Harm and Actionability

"A person makes a defamatory statement if the statement "tends to harm the reputation of another as to lower him in the estimation of the community or deter third persons from associating or dealing with him." *Fountain v. First Reliance Bank*, 398 S.C. 434, 441, 730 S.E.2d 305, 309 (2012). "To render the defamatory statement actionable, it is not necessary that the false charge be made in a direct, open and positive manner. A mere insinuation is as actionable as a positive assertion if it is false and malicious and the meaning is plain." *Fountain v. First Reliance Bank*, 398 S.C. 434, 441-42, 730 S.E.2d 305, 309 (2012) (quoting *Timmons v. News & Press, Inc.*, 232 S.C. 639, 644, 103 S.E.2d 277, 280 (1958)). “Statements therefore may be either defamatory on their face, or defamatory by way of innuendo. "Innuendo is extrinsic evidence used to prove a statement's

defamatory nature. It includes the aid of inducements, colloquialisms, and explanatory circumstances." *Id.* (citing *Parrish v. Allison*, 376 S.C. 308, 325 n.1, 656 S.E.2d 382, 391 n.1 (Ct. App. 2007)).

"Slander, [...] is actionable per se when the defendant's alleged defamatory statements charge the plaintiff with one of five types of acts or characteristics: (1) commission of a crime of moral turpitude; (2) contraction of a loathsome disease; (3) adultery; (4) unchastity; or (5) unfitness in one's business or profession.'" *Fountain v. First Reliance Bank*, 730 S.E.2d at 309 (quoting *Goodwin v. Kennedy*, 347 S.C. 30, 36, 552 S.E.2d 319, 322-23 (Ct. App. 2001)). "If the statement is actionable per se, then the defendant 'is presumed to have acted with common law malice and the plaintiff is presumed to have suffered general damages.'" *Id.* (quoting *Erickson v. Jones Street Publishers, LLC*, 368 S.C. 444, 465, 629 S.E.2d 653, 664 (2006)). "If the statement is not actionable per se, then the plaintiff must plead and prove both common law malice and special damages." *Id.*

Here, Defendants' statements that Ms. Lehman is a "liar" and "bitch," who was "faking her injuries convey a plain meaning that Payne is referring to Ms. Lehman in a manner that will cause harm to her reputation, lower her estimation in the community, and deter third persons from associating or dealing with her. Certainly, lying about a work injury diminishes one's profession. Further, Payne calling Ms. Lehman a "bitch" in the context of her work is actionable per se and general damages are presumed. Accordingly, Ms. Lehman's damages are inferred and need not be pled. However, to the extent Ms. Lehman must plead and prove damages, the Amended Complaint alleges she suffered damages including, but not limited to psychological harm, emotional distress, embarrassment, and loss to professional standing (Am. Compl. Am. Compl. ¶ 95). Therefore, Defendants' Motion for a More Definite Statement should be denied.¹

¹ See also the South Carolain Court of Appeals' note in *Ladson v. Harvest Hope Food Bank*, No. 2012-UP-292, 2012 S.C. App. Unpub. LEXIS 398, at *1-2 (Ct. App. May 16, 2012) where it cited S.C. Code Ann. § 41-1-80 stating the statute provides for "compensatory damages to an employee discharged or demoted 'because the employee has instituted or caused to be instituted, in good faith, any proceeding under the South Carolina Workers' Compensation Law'").

II. Ms. Lehman is entitled to a jury trial on her wrongful discharge claim.

“Where the retaliatory discharge of an at-will employee constitutes violation of a clear mandate of public policy, a cause of action in tort for wrongful discharge arises.” *Ludwick v. This Minute of Carolina, Inc.*, 287 S.C. 219, 220, 337 S.E.2d 213, 213 (1985) “Under *Ludwick* an action for wrongful discharge is an action in tort.” *Culler v. Blue Ridge Elec. Coop.*, 309 S.C. 243, 246, 422 S.E.2d 91, 93 (1992) (citing *Ludwick*, at 225, 337 S.E.2d at 216. “An action in tort is generally an action at law [...] unless equitable relief is sought. *Id.* (citing *Mortgage Loan Co. v. Townsend*, 156 S.C. 203, 152 S.E. 878 (1930)). “The ‘public policy’ exception in *Ludwick* extends to ‘violation of a clear mandate of public policy.’” *Culler v. Blue Ridge Elec. Coop.*, 309 S.C. 243, 246, 422 S.E.2d 91, 92 (1992).

Here, Ms. Lehman is not seeking equitable relief, as she is not seeking reinstatement. Instead, Ms. Lehman’s Amended Complaint seeks compensatory damages in the form of lost back and future wages, income and benefits, and expenses associated with finding other work. Ms. Lehman further seeks damages for severe psychological harm, emotional distress, anxiety, pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, embarrassment, humiliation, loss to professional standing, character and reputation, physical and personal injuries, and further seeks attorney’s fees and costs and prejudgment interest.

Ms. Lehman’s workers’ compensation retaliation claim is akin to a wrongful discharge claim in violation of public policy. The Court in *Ludwick* extended the public policy exception with respect to wrongful discharge to include “violation[s] of a clear mandate of public policy.” Here, the workers’ compensation statute (42-1-10) establishes the clear mandate of public policy that is required to plead a cause of action for wrongful discharge.

Notably, there have been other cases where there have been jury trials on claims of workers’ compensation retaliation. See, *Chastain v. Owens Carolina, Inc.*, 310 S.C. 417, 426 S.E.2d 834 (Ct. App. 1993) (plaintiff employee brought a statutory action seeking lost wages and reinstatement in a job from which he was discharged by defendant employer in retaliation for filing a claim under the Workers' Compensation law. The action was tried to a jury on the issue of whether the discharge was retaliatory, and the jury found

for the employee); *Horn v. Davis Elec. Constructors, Inc.*, 307 S.C. 559, 561, 416 S.E.2d 634, 635 (1992) (“... the trial court construed Section 41-1-80 to permit the jury to decide only whether a violation of the statute had occurred and in the event of a verdict for the plaintiff, reinstatement and payment of back wages were mandatory).

III. Ms. Lehman’s Remedies are not limited to reinstatement.

Even if Ms. Lehman’s claims were limited to reinstatement– which they are not– the factfinder would still be entitled to award other remedies in situations where reinstatement is not feasible or practical. See *Drew v. Waffle House, Inc.*, 351 S.C. 544, 550, 571 S.E.2d 89, 92 (2002) (“front pay is awarded as a complement or as an alternative to reinstatement. If reinstatement is shown to be infeasible, for instance because of a hostile atmosphere, front pay may be awarded in lieu thereof or to reimburse the employee until the time of reinstatement.”) In fact, the Court in *Drew* held:

In considering the issue of front pay, federal courts have recognized its speculative character and therefore give wide latitude to the trial court. [...] As stated by the Fourth Circuit Court of Appeals: ‘The infinite variety of factual circumstances that can be anticipated do not render any remedy of front pay susceptible to legal standards for awarding damages.’ [...]. Accordingly, where the trial court has used permissible bases for awarding front pay, no abuse of discretion will be found. [...]. The factors that may be considered in awarding front pay include the length of prior employment, the permanency of the position held, the nature of the work, and the age and physical condition of the employee, along with other factors affecting the employer-employee relationship. [...] Evidence of future employment prospects may also be considered.

Drew v. Waffle House, Inc., 351 S.C. 544, 549-50, 571 S.E.2d 89, 92 (2002) (internal citation omitted). Here, based on the allegations in the Amended Complaint, the Court could determine that Ms. Lehman’s reinstatement is impractical or not feasible based on the workplace environment that would be created with her return to work. Therefore, Defendants’ Motion to Strike should be denied.

CONCLUSION

For the reasons stated above, Plaintiff requests this Court deny Defendants’ Motion to Strike and Motion for a More Definite Statement.

RESPECTFULLY SUBMITTED,

FERGUSON LAW AND MEDIATION, LLC

July 16, 2025
Charleston, South Carolina

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	CASE NO.: 2024-CP-08-03367
	)	
Stephanie Lehman,	)	
	)	
Plaintiff,	)	
	)	DEFENDANT BERKELEY
v.	)	COUNTY SCHOOL
	)	DISTRICT'S MOTION TO
Berkeley County School District and	)	ALTER OR AMEND ORDER
Anne-Magill Payne, individually, and as an	)	
agent of Berkeley County School District,	)	
	)	
Defendants.	)	
	)	

Defendant Berkeley County School District ("BCSD"), pursuant to Rules 52(b) and 59(e) of the South Carolina Rules of Civil Procedure, moves for an order amending and/or altering the Court's Order denying BCSD's Motion to Strike and for More Definite Statement (the "Motion"), dated November 6, 2025, and entered by the Clerk of Court on November 6, 2025 (the "Order").¹ BCSD received written notice of entry of the Order on November 6, 2025.

INTRODUCTION

BCSD asserts the Order is issued in error for the following reasons: 1) Plaintiff Stephanie Lehman's ("Lehman") claim under S.C. Code Ann. 42-1-80 is unlike a common law wrongful discharge action (a tort action); 2) Lehman's claim under S.C. Code Ann. 42-1-80 is an equitable claim, allowing only equitable remedies (lost wages and reinstatement only) and not subject to a jury trial; 3) inconsistent with *McNeil v. S.C. Dep't of Corrections*; and 4) inconsistent with Rules 8(c) and 9(h), SCRCP.

¹ Exhibit A.

LEGAL STANDARD

South Carolina Rule of Civil Procedure 52(b) allows a party “not later than 10 days after receipt of written notice of entry of judgment” to request the court “amend its findings or make additional findings and may amend the judgment accordingly . . .” Rule 52(b), SCRCP, further requires “[a] party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days after filing the motion.” Correspondingly, and similarly, South Carolina Rule of Civil Procedure 59(e) allows a party to request a court alter or amend a judgment within ten days of receiving the written notice of entry of an order.

LEGAL ARGUMENT

I. Lehman’s Workers’ Compensation Retaliation Cause of Action Under S.C. Code 42-1-80 Is Unlike a Wrongful Discharge Cause of Action.

The Court’s conclusion in the Order that Lehman’s workers compensation retaliation claim under S.C. Code Ann. § 42-1-80 is “akin to” (i.e., like) a wrongful discharge claim for violation of public policy is a misstatement/misapplication of well-recognized South Carolina law. As the Order recognizes, Lehman’s Amended Complaint contains a cause of action for workers’ compensation retaliation under S.C. Code Ann. § 42-1-80; a statutory provision providing the sole, express statutory remedy in South Carolina for workers compensation retaliation. In her Amended Complaint, Lehman does not assert a common law wrongful discharge claim for alleged violation of public policy.

In respect to wrongful discharge causes of action for alleged violations of public policy, “South Carolina courts have refused to extend the public policy exceptions to situations where the employee has an existing statutory remedy.” *Martin v. The Boeing Co.*, No. 2:16-cv-02797-DCN, 2016WL7239914, *3 (D.S.C. December 15, 2016) (citing *Barron v. Labor Finders of S.C.*, 393

S.C. 609, 615, 713 S.E.2d 634, 637 (2011) (“The public policy exception does not . . . extend to situations where the employee has an *existing statutory remedy for wrongful termination*.”) (emphasis added); *Stiles v. American Gen'l Life Ins. Co.*, 335 S.C. 222, 228, 516 S.E.2d 449, 452 (1999) (wrongful termination claim should not overlap with statutory or contractual rights but “provide[s] a remedy for a clear violation of public policy where *no other reasonable means of redress exists*”) (emphasis added); *Dockins v. Ingles Markets, Inc.*, 306 S.C. 496, 498, 413 S.E.2d 18, 19 (1992) (wrongful termination claim is *unavailable where the employee has a state or federal statutory remedy*) (emphasis added). In this case, Lehman has an express statutory remedy under S.C. Code Ann. § 42-1-80. Consequently, Lehman’s workers compensation retaliation claim is not “akin to” cause of action for wrongful discharge.

In summary, Lehman’s cause of action for workers compensation retaliation is neither a wrongful discharge cause of action (a tort action) nor like a wrongful discharge cause of action. On the contrary, Lehman’s workers’ compensation retaliation cause of action is an action under S.C. Code Ann. § 42-1-80; a statute providing Lehman with specific equitable remedies only. To the extent the Order reasons, finds, or concludes otherwise, the Order is in error.

II. The Order Deprives BCSD of the Mode of Trial Required by S.C. Code Ann. § 41-1-80.

The Court’s conclusion in the Order that Lehman’s workers compensation retaliation claim is like a wrongful discharge cause of action leads to further, consequential error: the Order deprives BCSD of its right to have Lehman’s workers’ compensation retaliation cause of action tried as a non-jury action for equitable remedies only.

S.C. Code Ann. § 41-1-80 provides, in pertinent part: “[a]ny employer who violates any provision of this section is liable in a civil action for *lost wages* suffered by an employee as a result

of the violation, and an employee discharged or demoted in violation of this section is entitled to be *reinstated to his former position*. The burden of proof is upon the employee.” (emphasis added.) Consequently, claims for workers’ compensation retaliation under the statute are equitable, not legal, and limited to reinstatement and back wages. *Wallace v. Milliken & Co.*, 305 S.C. 118, 120, 406 S.E.2d 358, 359 (1991). Further, South Carolina law is clear: Lehman’s retaliatory discharge claim under S.C. Code Ann. § 41-1-80 is an equity action subject to a non-jury trial. *Hinton v. Designer Ensembles, Inc.*, 343 S.C. 236, 241, 540 S.E.2d 94, 96 (2000).

Additionally, the Court’s reliance on *Drew v. Waffle House, Inc.*, 3351 S.C. 544, 571 S.E.2d 89 (Ct. App. 2002) in the Order is misplaced, and further complicates the Order, because the court in *Drew* applied federal law and addressed claims under the Family Medical Leave Act (“FMLA”), as compared to Lehman’s claim under S.C. Code Ann. § 42-1-80, a state statute where federal law is inapplicable. The FMLA and S.C. Code Ann. § 42-1-80 are not comparable statutes, and S.C. Code Ann § 41-1-80 is not subject to the application or interpretation of federal law. Therefore, the Court’s application of *Drew* is in error.

Despite claims for workers’ compensation retaliation being equitable in nature, the Order allows Lehman to seek legal remedies for damages other than reinstatement and back wages “in the form of severe psychological harm, emotional distress, anxiety, pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, embarrassment, humiliation, loss of education standing, character and reputation, physical and personal injuries, and . . . attorneys’ fees and costs and prejudgment interest.” (Am. Compl. ¶ 38.) Because the damages noted above that Lehman seeks, and the Order allows her to pursue, are not expressly recoverable under S.C. Code Ann. § 41-1-80, the Order, whether intentionally or inadvertently, allows Lehman to seek damages *from a jury* for her workers’ compensation retaliation cause of action, including legal, as

opposed to equitable, damages that are not allowed by S.C. Code Ann. § 42-1-80.

The failure of the Order to strike Paragraph 38 of the Amended Complaint, and the Order correspondingly allowing for a jury trial as to Lehman's workers' compensation retaliation cause of action, constitutes legal error. *See Robinson v. Code*, 384 S.C. 582, 588, 682 S.E.2d 495, 498 (Ct. App. 2009) (affirming trial court's granting of motion to strike certain allegations relating to negligence because underlying statute did not provide for recovery). Similar to *Robinson*, the underlying statute in Lehman's case, S.C. Code Ann. § 42-1-80, does not provide remedies beyond what the clear language of S.C. Code Ann. § 41-1-80 allows: lost wages and reinstatement, both equitable remedies for which no jury trial is allowed in South Carolina.

The Court should alter or amend the Order and strike those portions of Lehman's Amended Complaint demanding remedies and damages beyond those available under S.C. Code Ann. § 41-1-80 (reinstatement and back wages) and those portions asserting the right to a jury trial for Lehman's claims made under S.C. Ann. § 41-1-80. Otherwise, the Order deprives BCSD of the right to non-jury trial as to Lehman's workers' compensation retaliation cause of action.

III. The Order Is Inconsistent with *McNeil v. S.C. Dep't of Corrections*.

As stated by the South Carolina Court of Appeals in *McNeil v. S.C. Dep't of Corrections*, the "[t]he elements of defamation include: (1) a false and defamatory statement concerning another; (2) an unprivileged publication to a third party; (3) fault on the part of the publisher; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication." *McNeil v. S.C. Dep't of Corr.*, 404 S.C. 186, 195, 743 S.E.2d 843, 848 (Ct. App. 2013) (quoting *Murray v. Holnam, Inc.*, 344 S.C. 129, 139, 542 S.E.2d 743, 748 (Ct. App. 2001)). Consequently, consistent with *McNeil*, to support her defamation claim, Lehman must identify (i.e., state) in her Amended Complaint the *specific* statements she alleges

are defamatory. See *McNeil* at 195, 743 S.E.2d 848 (dismissing plaintiff's defamation claim because plaintiff "did not set forth with any specificity what the alleged false statements were."). See also *Harris v. Tietex Int'l Ltd.*, 417 S.C. 533, 541, 790 S.E.2d 411, 416 (Ct. App. 2016), reh'g denied (Sept. 23, 2016), cert. denied (Sept. 8, 2017) (dismissing, at summary judgment, plaintiff's defamation claim because plaintiff "has not identified the specific defamatory statements on which he bases his defamation claim or claims."); *McBride v. Sch. Dist. of Greenville Cty.*, 389 S.C. 546, 562, 698 S.E.2d 845, 853 (Ct. App. 2010) (holding, in case involving directed verdict, the plaintiff's description of alleged defamatory statements was too vague to be evaluated).

Additionally, Lehman must identify the individuals she alleges *made and heard/read/saw* the statements/insinuations she alleges are defamatory. BCSD "'cannot be expected to defend against an allegation that [BCSD] defamed Plaintiff by making a statement heard by *unknown* persons at an *unknown* place at an *unknown* time.'" *Doe v. McGowan*, No. 2:16-CV-00777-RMG-MGB, 2017 WL 573619, at *3 (D.S.C. Jan. 5, 2017), report and recommendation adopted, No. 2:16-CV-00777-RMG, 2017 WL 571487 (D.S.C. Feb. 13, 2017) (quoting *Colleton v. Charleston Water Sys.*, 225 F. Supp. 3d 362, 369 (D.S.C. 2016)) (emphasis added). As focused upon by the court in *Doe*, plaintiff's complaint did "not allege with specificity the time, place, medium, or listener of any of the alleged defamatory statements." *Id.* Therefore, the *Doe* court concluded "the defamation claims against [defendants] be dismissed . . ." *Id.*

"By requiring the plaintiff to set forth in his complaint the name or names of the persons to whom the defamatory words concerning the plaintiff were spoken is not done for the purpose of requiring the plaintiff to disclose to his adversary the names of the witnesses that he relies on to prove to whom the defamatory words were spoken, but is to limit the issues to the particular person or persons named in the complaint." *Tucker v. Pure Oil Co. of Carolinas*, 191 S.C. 60, 67-68, 3

S.E.2d 547, 549 (1939). “The [defendant] being put on notice of this by the complaint, [is] enabled to answer the charge made and prepare a defense thereto.” *Id.*

Left unaltered, the Order allows Lehman to proceed under an Amended Complaint that is vague and ambiguous as to her defamation claim in respect to BCSD. Consequently, the Court should alter and/or amend the Order to require Lehman to amend her Amended Complaint and provide the following:

- 1) list of *all* alleged defamatory statements, whether written or verbal, or defamatory insinuations, as opposed to alleging her defamation claim is “not limited to” any, specific defamatory statements and/or insinuations specifically contained in the Amended Complaint. An amended order should require Lehman remove “not limited to” because the phrase alone makes her claims vague and ambiguous.
- 2) as to the allegation Payne, or any other BCSD employee or agent, called Plaintiff a “liar,” Plaintiff must state *when* and *where* the statement was made by Payne or others, *who* made the statement, and *to whom* specifically Payne or others made the statement(s).
- 3) as to the allegation Payne, or any other BCSD employee or agent, stated Plaintiff was “faking” her injuries, Plaintiff must state *when* and *where* the statement was made by Payne or others, *who* made the statement, and *to whom* specifically Payne or others made the statement(s).
- 4) as to the allegation Payne, or any other BCSD employee or

agent, stated Plaintiff was “stealing time” and/or “not properly completing her timesheets,” Plaintiff should state *when* and *where* the statement was made by Payne or others, *who* made the statement, and *to whom* specifically Payne or others made the statement(s).

5) as to the allegation Payne, or any other BCSD employee or agent, stated Plaintiff was a “Bitch” on “multiple occasions,” Plaintiff should state *when* and *where* the statement was made by Payne or others, *who made* the statement, and *to whom* specifically Payne or others made the statement(s).

IV. The Order is Inconsistent with Rule 9(h), SCRPC, and Rule 8(c), SCRPC.

Rule 9(h), SCRPC, states the following:

Libel or Slander. In pleading libel or slander it is not necessary to state in the pleading any extrinsic facts for the purpose of showing the application to the pleader of the defamatory matter out of which the action arose; but it is sufficient to state generally that the same was published or spoken concerning the pleader. In such case, the opposing party may in his answer, allege both the truth of the matter charged as defamatory, and any mitigating circumstances reducing the amount of damages and, whether he prove the justification or not, he may give in evidence the mitigating circumstances.

Rule 9(h), SCRPC (emphasis added). Rule 9(h), SCRPC, recognizes Lehman must allege the degree of specificity discussed above in Section III because how else can BCSD, or any “opposing party” in a defamation action, plead, for instance, truth as a defense if the complaint does not contain the degree of specificity discussed in Section III? Moreover, how can BCSD (i.e., an “opposing party”) plead “mitigating circumstances” if Lehman’s Amended Complaint does not contain the degree of specificity discussed in Section III?

Rule 9(h), SCRCP, recognizes Lehman's Amended Complaint must contain more specificity as to BCSD, and Rule 9(h) presumes Lehman's Amended Complaint will include sufficient detail for BCSD to, at the least, plead "mitigating circumstances" and plead "truth" as defenses. A conclusion otherwise ignores the plain language of Rule 9(h), SCRCP.

Additionally, Rule 8(c), SCRCP, requires BCSD plead affirmative defenses in its answer to Lehman's Amended Complaint including, but not limited to, "the statute of limitations" and "any other matter constituting an avoidance or affirmative defense," such as qualified privilege. Rule 8(c), SCRCP. In the absence of Lehman pleading the degree of specificity discussed in Section III, such as the date of the defamatory statement for example, how can BCSD, or any defendant, adequately plead the statute of limitations as an affirmative defense? Like Rule 9(h), SCRCP, Rule 8(c), SCRCP, presumes Lehman's Amended Complaint will include sufficient detail for BCSD to, at the least, plead the "statute of limitations" as an affirmative defense. A conclusion in or result of the Order otherwise ignores the plain language and expectation of Rule 8(c), SCRCP.

CONCLUSION

For the specific reasons discussed, and in the manner suggested, BCSD requests the Court reconsider and alter and/or amend the Order.

Respectfully submitted,

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ATTORNEY FOR DEFENDANT
BERKELEY COUNTY SCHOOL
DISTRICT

Charleston, South Carolina
November 17, 2025

Exhibit A

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Stephanie Lehman

Plaintiff,

vs.

Berkeley County School District and Anne-
Magill Payne, individually, and as an agent of
Berkeley County School District,

Defendants.

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

Case No.: 2024-CP-08-03367

ORDER**BACKGROUND**

This is an employment case where Plaintiff, Stephanie Lehman (“Plaintiff”) alleges she was constructively discharged from her employment as a teacher with the Berkeley County School District (“BCSD”) subsequent to her filing a claim for workers’ compensation benefits. Plaintiff also asserts a claim for defamation based on the false and defamatory statements and insinuations made by Defendant Anne-Magill Payne (“Payne”), individually, and as an agent of BCSD.

On January 7, 2025, Defendant BCSD filed its Motion to Strike and for More Definite Statement. On February 28, 2025, Defendant Payne filed a Motion for More Definite Statement. For the reasons below, Defendants’ Motion for More Definite Statement is **DENIED**. Further, Defendant BCSD’s Motion to Strike is **DENIED**.

**FACTS ALLEGED IN THE COMPLAINT AS TO WORKERS’ COMPENSATION
RETALIATION**

Plaintiff was hired by BCSD as a physical education teacher and athletic coach in March 2019 and was assigned to Phillip Simmons High School (PSHS) (Am. Compl. ¶5). On or about October 13, 2023, Plaintiff alleges she was violently attacked by a student at PSHS. The allegations continue to say the student used a partially or fully-filled 40 oz stainless steel “Hydroflask-style” metal water bottle to strike Plaintiff in the head and face, causing severe injuries and a concussion (Am. Compl. ¶6–Am. Compl. ¶11). On or about October 18, 2023, Plaintiff filed a workers’ compensation claim

for the injuries she sustained related to the alleged October attack (Am. Compl. ¶13).

On or about October 31, 2023, when she alleges she was recovering from a concussion and suffering the effects of post-concussion syndrome, Plaintiff was assigned what was identified as a “light-duty assignment” to work in an elementary school cafeteria as a food service technician (Am. Compl. ¶ 14). Defendant was aware of Plaintiff’s restricted ability to perform the duties of a food service technician, and her sensitivity to light and noise associated with an elementary school cafeteria but still required her to work in this capacity. Moreover, Defendant informed Plaintiff that if she did not accept this position, she would not be eligible for workers’ compensation benefits. (Am. Compl. ¶ 16).

On November 29, 2023, Plaintiff was placed on administrative leave due to an accusation that she failed to report her working time and was absent without approval (Am. Compl. ¶19). On January 4, 2024, the District determined Plaintiff had committed no policy violations, yet she was not permitted to return to work and was placed on unpaid leave (Am. Compl. ¶20–Am. Compl. ¶24).

On February 9, 2024, Plaintiff received notice of termination for allegedly failing to report to Sedgefield Middle School (Am. Compl. ¶25). She objected to both her termination and reassignment. Although her termination was rescinded, she was not restored to her prior post and her duties as an athletic coach were removed (Am. Compl. ¶27). The Complaint alleges that, in retaliation for filing a workers’ compensation claim, Defendant stripped Plaintiff of her role as a golf coach, removed her from her role as a teacher at PSHS, which ultimately culminated in her constructive discharge from BCSD.

FACTS ALLEGED IN THE COMPLAINT AS TO DEFAMATION

In the Amended Complaint, Plaintiff alleges Payne is the principal’s secretary at PSHS (Am. Compl. ¶33). Plaintiff claims Payne, in her individual capacity, and as an agent of BCSD, made false and defamatory statements about Plaintiff. (Am. Compl. ¶33, Am. Compl. ¶56). Such statements included calling Plaintiff a liar, accusing her of faking injuries, stealing time, and repeatedly referring

to her as a “bitch”, all in the presence of students, staff, and parents (Am. Compl. ¶33, 56). Furthermore, Plaintiff alleges Payne told others that she was “faking” the injuries she suffered in the October attack and that Plaintiff was stealing time by not properly completing her timesheets (Am. Compl. ¶33). These statements were made during school hours and often in the presence of students, parents, and other staff members (Am. Compl. ¶33). Plaintiff further asserts that Payne, both individually and as an agent of the District, knowingly made false statements in front of other students, parents, and other staff members that damaged Plaintiff’s professional reputation and caused emotional and financial harm (Am. Compl. ¶33, Am. Compl. ¶55). Plaintiff alleges these statements occurred during her employment with BCSD in 2023 and 2024 (Am. Compl. ¶ 20, 29, 33).

LEGAL STANDARD

I. MOTION FOR MORE DEFINITE STATEMENT

“A pleading which sets forth a cause of action, [...], shall contain (1) a short and plain statement of the grounds including facts and statutes upon which the court's jurisdiction [...], (2) **a short and plain statement of the facts showing that the pleader is entitled to relief**, and (3) a prayer or demand for judgment for the relief to which he deems himself entitled [...].” Rule 8, SCRCP (emphasis added).

“If a pleading to which a responsive pleading is permitted is **so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading**, he may move for a more definite statement before interposing his responsive pleading.” Rule 12, SCRCP (emphasis added).

“In pleading libel or slander **it is not necessary to state in the pleading any extrinsic facts for the purpose of showing the application to the pleader of the defamatory matter out of which the action arose; but it is sufficient to state generally that the same was published or spoken concerning the pleader.**” Rule 9(h), SCRCP (emphasis added).

II. MOTION TO STRIKE

“A motion to strike under Rule 12(f), SCRCP, which challenges a theory of recovery in the complaint, is in the nature of a motion to dismiss under Rule 12(b)(6), SCRCP.” *Grazia v. S.C. State Plastering, LLC*, 390 S.C. 562, 567, 703 S.E.2d 197, 199 (2010) (Citing *McCormick v. England*, 328 S.C. 627, 632, 494 S.E.2d 431, 433 (Ct. App. 1997)). “In reviewing a ruling on a motion to dismiss a claim, this Court must base its decision solely on the allegations set forth on the face of the complaint.” *Id.* (citing *McCormick*, at 632-33, 494 S.E.2d at 433). “The motion cannot be sustained if the facts alleged and the inferences reasonably deducible therefrom would entitle the plaintiff to any relief on any theory of the case.” *Id.* at 633, 494 S.E.2d at 433 (citing *Dye v. Gainey*, 320 S.C. 65, 463 S.E.2d 97 (Ct. App. 1995)). “The question is whether in the light most favorable to the plaintiff, and with every reasonable doubt resolved in her behalf, the complaint states any valid claim for relief. The cause of action should not be struck merely because the court doubts the plaintiff will prevail in the action.” *Id.* at 633, 494 S.E.2d at 433-34.

ANALYSIS

I. DEFENDANT’S MOTION FOR A MORE DEFINITE STATEMENT

There is no dispute that “[t]he elements of defamation include: (1) a false and defamatory statement concerning another; (2) an unprivileged publication to a third party; (3) fault on the part of the publisher; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.” *McNeil v. S.C. Dep’t of Corr.*, 404 S.C. 186, 195, 743 S.E.2d 843, 848 (Ct. App. 2013) (quoting *Murray v. Holnam, Inc.*, 344 S.C. 129, 139, 542 S.E.2d 743, 748 (Ct. App. 2001)).

The Amended Complaint meets the pleading standards under Rules 8 and 9 SCRCP.

Therefore, Defendant’s Motion for A More Definite Statement is **DENIED**.

II. DEFENDANT BCSD’S MOTION TO STRIKE

A. Plaintiff’s request for a jury trial is proper.

“Where the retaliatory discharge of an at-will employee constitutes violation of a clear mandate of public policy, a cause of action in tort for wrongful discharge arises.” *Ludwick v. This Minute of Carolina, Inc.*, 287 S.C. 219, 220, 337 S.E.2d 213, 213 (1985) “Under *Ludwick* an action for wrongful discharge is an action in tort.” *Culler v. Blue Ridge Elec. Coop.*, 309 S.C. 243, 246, 422 S.E.2d 91, 93 (1992) (citing *Ludwick*, at 225, 337 S.E.2d at 216). “An action in tort is generally an action at law [...] unless equitable relief is sought. *Id.* (citing *Mortgage Loan Co. v. Townsend*, 156 S.C. 203, 152 S.E. 878 (1930)). “The ‘public policy’ exception in *Ludwick* extends to ‘violation of a clear mandate of public policy.’” *Culler v. Blue Ridge Elec. Coop.*, 309 S.C. 243, 246, 422 S.E.2d 91, 92 (1992).

Here, Plaintiff’s Amended Complaint seeks compensatory damages in the form of lost back and future wages, income, and benefits, and expenses associated with finding other work. Plaintiff further seeks damages for severe psychological harm, emotional distress, anxiety, pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, embarrassment, humiliation, loss to professional standing, character and reputation, physical and personal injuries, and further seeks attorney’s fees and costs and prejudgment interest.

Plaintiff’s workers’ compensation retaliation claim is akin to a wrongful discharge claim in violation of public policy. The Court in *Ludwick* extended the public policy exception with respect to wrongful discharge to include “violation[s] of a clear mandate of public policy.” Here, the workers’ compensation statute (42-1-10) establishes the clear mandate of public policy that is required to plead a cause of action for wrongful discharge.

Notably, there have been other cases where there have been jury trials on claims of workers’ compensation retaliation. See, *Chastain v. Owens Carolina, Inc.*, 310 S.C. 417, 426 S.E.2d 834 (Ct. App. 1993) (plaintiff employee brought a statutory action seeking lost wages and reinstatement in a job from which he was discharged by defendant employer in retaliation for filing a claim under the Workers' Compensation law. The action was tried to a jury on the issue of whether

the discharge was retaliatory, and the jury found for the employee); *Horn v. Davis Elec. Constructors, Inc.*, 307 S.C. 559, 561, 416 S.E.2d 634, 635 (1992) (“... the trial court construed Section 41-1-80 to permit the jury to decide only whether a violation of the statute had occurred and in the event of a verdict for the plaintiff, reinstatement and payment of back wages were mandatory).

B. Plaintiff’s remedies are not limited to reinstatement.

Even if Plaintiff’s claims were limited to reinstatement the factfinder would still be entitled to award other remedies in situations where reinstatement is not feasible or practical. See *Drew v. Waffle House, Inc.*, 351 S.C. 544, 550, 571 S.E.2d 89, 92 (2002) (“front pay is awarded as a complement or as an alternative to reinstatement. If reinstatement is shown to be infeasible, for instance because of a hostile atmosphere, front pay may be awarded in lieu thereof or to reimburse the employee until the time of reinstatement.”) In fact, the Court in *Drew* held:

In considering the issue of front pay, federal courts have recognized its speculative character and therefore give wide latitude to the trial court. [...] As stated by the Fourth Circuit Court of Appeals: ‘The infinite variety of factual circumstances that can be anticipated do not render any remedy of front pay susceptible to legal standards for awarding damages.’ [...]. Accordingly, where the trial court has used permissible bases for awarding front pay, no abuse of discretion will be found [...]. The factors that may be considered in awarding front pay include the length of prior employment, the permanency of the position held, the nature of the work, and the age and physical condition of the employee, along with other factors affecting the employer-employee relationship. [...] Evidence of future employment prospects may also be considered.

Drew v. Waffle House, Inc., 351 S.C. 544, 549-50, 571 S.E.2d 89, 92 (2002) (internal citation omitted). Here, based on the allegations in the Amended Complaint, the Court could determine that Plaintiff’s reinstatement may be impractical based on the workplace environment that would be created with her return to work.

Therefore, Defendant BCSD’s Motion to Strike is **DENIED**.

CONCLUSION

For the reasons stated above, the Court **DENIES** Defendant BCSD’s Motion to Strike.

Further, the Court **DENIES** Defendants' Motion for a More Definite Statement.

The Honorable Diane S. Goodstein
Circuit Court Judge

Charleston, South Carolina



Berkeley Common Pleas

Case Caption: Stephanie Lehman VS School District Berkeley County
Case Number: 2024CP0803367
Type: Master/Order/Other

It is so Ordered!

s/Diane S. Goodstein

Electronically signed on 2025-11-06 12:41:23 page 8 of 8

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STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY
THE COURT OF COMMON PLEAS
C.A. NO. 2024-CP-08-03367

STEPHANIE LEHMAN,

PLAINTIFF,

vs.

BERKELEY COUNTY SCHOOL DISTRICT,

DEFENDANT.

H E A R I N G
BEFORE THE HONORABLE DIANE SHAFER GOODSTEIN

DATE: JULY 17, 2025
TIME: N/A
LOCATION: SOUTH CAROLINA CIRCUIT COURT 9
TRANSCRIBED BY: AMANDA WATSON

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(NONE MARKED)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

P R O C E E D I N G S

THE COURT: Now, with regards to our schedule.

CLERK OF COURT: Yes, ma'am. The next case, and the last case, we have two defense motions in 2024-CP-08-03367, Stephanie Lehman versus Berkeley County School District. And, I am moving parties over currently, Judge Goodstein. Give me just ...

THE COURT: Okay.

CLERK OF COURT: I cannot move to. I have an -- I can't -- let me -- I can chat with this person. I have one more person in attendees that I cannot un-mute, nor move as a participant, but I can chat. I'm going to find out. It is Sarah Pickus Herspold (phonetic), and I'm going to chat to find out if she's involved with this, and she may need to log out and log back in. Give me just a moment, Your Honor.

THE COURT: All right.

CLERK OF COURT: She's typing. There we go.

MR. FERGUSON: Well, I'll tell you -- hey, it's Emmanuel Ferguson, you said her name is Sarah. She's -- she's not my client or otherwise involved with -- with my office so, I don't know if she's -- she's one of the parties in this case.

CLERK OF COURT: Thank you.

MR. FERGUSON: Bob and John, is Sarah -- this Sarah person, part of -- one of y'all's people?

MR. CONLEY: No. I do not know who that is. Brandon

1 Gaskin (phonetic) would be the only person who might be
2 appearing that I would know of. But I don't know who that
3 is, Emmanuel.

4 THE COURT: Who is it? What's the name, K?

5 CLERK OF COURT: It is Sarah Austin -- no, hold on.

6 THE COURT: She was just in the last hearing.

7 CLERK OF COURT: Sarah -- no, Sarah Pickus hyphen, H, E,
8 R, S, P, O, L, D.

9 THE COURT: Yeah, that is somebody different. Sarah
10 Austin was in the last ---

11 CLERK OF COURT: Yes. Yes, ma'am. I was looking at the
12 chat, how it doesn't push everything up.

13 THE COURT: Right. Sure.

14 CLERK OF COURT: I'm waiting for a response.

15 THE COURT: All right.

16 CLERK OF COURT: Okay. She has now left the attendee
17 list.

18 THE COURT: Huh.

19 CLERK OF COURT: Yes.

20 THE COURT: Well, Counsel, and then if you all don't
21 know who that is, I'm comfortable proceeding on and if she
22 shows back up we'll -- we'll deal with that as it comes. All
23 right. And I've got two motions. One of them is the motion
24 made more definite and certain and a motion to strike. I
25 think. Let me look. Wait a minute.

1 MR. CONLEY: That's correct, Judge.

2 THE COURT: Okay. Good. And it appears that the first
3 one on my docket is the motion to strike and then the motion
4 to make more definite and certain. They sound kind of
5 related.

6 MR. CONLEY: They are, Judge.

7 THE COURT: All right.

8 MR. CONLEY: May it please the Court. Bob Conley, I'm
9 appearing on behalf of the Berkeley County School District.

10 THE COURT: Yes.

11 MR. CONLEY: We have filed -- the school district has
12 filed two motion ---

13 THE COURT: And Mr. Conely just froze. And now you're
14 gone.

15 CLERK OF COURT: I will be watching for him to join us
16 again.

17 THE COURT: Great. You -- Mr. Ferguson, that's the
18 biggest water bottle I've ever seen.

19 MR. FERGUSON: Got to stay hydrated.

20 THE COURT: Holy cow. When you drink that, when you win
21 a prize.

22 MR. CONLEY: Judge, I -- I apologize. I'm not sure why
23 I cut out there.

24 THE COURT: You know what? Don't you wish we really
25 knew, because then we would be so tech savvy.

1 MR. CONLEY: Yes, I'm going to be ---

2 THE COURT: And our children and grandchildren would
3 have nothing on us.

4 MR. CONLEY: I'm going to try to be quick here so I
5 don't get cut off again. This is a case that arises from a
6 worker's compensation injury that Mr. Ferguson's client
7 incurred while she was a teacher with the Berkeley County
8 School District. Mr. Ferguson later brought a lawsuit that
9 contains two claims and two claims only. It contains a
10 retaliation claim under 41-1-80, which is the Worker's
11 Compensation Retaliation Statute. It also contains a
12 defamation claim.

13 Our motion to strike, the school district's motion to
14 strike is solely related to the worker's compensation
15 retaliation claim. Mr. Ferguson, under that claim, has
16 claimed damages in the complaint that we assert that he can
17 -- his client cannot pursue. In other words, our reading of
18 the statute, and we believe the South Carolina Supreme
19 Court's interpretation of the statute, has been there are
20 only two elements of damage, or are elements of recovery you
21 can receive under that statute.

22 One is reinstatement to your position. Two is -- is
23 lost wages. South Carolina Supreme Court, I think, has also
24 been clear on several occasions that that is an equitable
25 claim. It is not a legal claim it's an equitable claim.

1 Irrespective of our position on that, Mr. Ferguson in his
2 client's complaint has asserted and made claims for other
3 compensatory damages, such as wounded feelings, mental type
4 and emotional type of injuries. We assert that those claims
5 should be struck from the complaint in regard to the worker's
6 compensation retaliation claim, because, again, our position
7 is those are damages for which his client simply legally
8 cannot recover under the act.

9 In regards to the defamation claim, that's the claim
10 where the school district is seeking a more definite
11 statement, Judge. It's the school district's position that,
12 although Mr. Ferguson has made defamation claims both against
13 the school district and against Mr. Fletcher's client, who is
14 an assistant secretary at the school where Mr. Ferguson's
15 client worked, that Mr. Ferguson's complaint -- his client's
16 complaint is not clear enough in terms of what the defamatory
17 statements are as to the school district.

18 There is information in his complaint regarding
19 allegations that Mr. Fletcher's client made, that
20 Mr. Ferguson's client claims were defamatory. But as to the
21 school district, there is nothing definitive in there as to
22 what -- what defamatory statements, whether written, or
23 verbal, or by insinuation, if you will, the school district
24 is responsible for. So, in our motion, we laid out a list of
25 five things in there that we believe that that complaint

1 should be more clear about in terms of what the defamatory
2 statements are that are alleged as to the school district.

3 As the Court recognizes, that's important in a
4 defamation case for us to know what those statements are.
5 It's even more important, I would assert, when the claim is
6 made against a governmental entity, because of the Tort
7 Claims Act, because of issues regarding actual malice under
8 the Tort Claims Act, it's also important to any Defendant,
9 from a standpoint of -- of -- of the various privileges that
10 might apply. Particularly in this case, where it appears
11 that some of the claims against the school district may
12 involve communications between other school district
13 employees, perhaps, so there would be privileges that apply.

14 Simply put, Your Honor, we laid out in the motion that
15 we filed, the five areas that we believe Mr. Ferguson's
16 complaint needed to be made more definite and certain. We
17 believe, and we cited it in our motion, that there's
18 substantial case law in South Carolina that supports that
19 position. That yes, rule 8, as we all know, it's fairly
20 liberal in terms of claims and you can make in a complaint
21 that suffice. But when it comes to defamation claims, it's
22 our position, Judge, that the courts have been pretty clear.

23 We need some clear guidance as to what those statements
24 are, not just what they are, but who they were made to. We
25 don't even know, reading the complaint, who these alleged

1 defamatory statements by, apparently, representatives of the
2 school district, were made to. It doesn't say when they were
3 made. It doesn't say who made them. In other words, what
4 school district employee or representative made them.

5 In short, Your Honor, our position on the defamation
6 claim needs to be made more definite and certain to provide
7 the school district with more substantive -- substantive
8 information about what those defamation claims are against
9 the school district.

10 I'm not going to speak for -- as for Mr. Fletcher and
11 his individual client, I'll let him speak as to that. But, I
12 think he basically asserted the same thing we have on behalf
13 of his client, that as to her -- the complaint needs to be
14 made more definite and certain. Again, I think we've laid
15 out comprehensively, in the motion we filed, the law we're
16 relying on for both of those respective motions, Your Honor.
17 And I'll leave the rest to Mr. Fletcher to discuss those
18 issues as to his individual client.

19 THE COURT: Okay. Who would like -- who wants to go
20 first? It makes no difference to me.

21 MR. FLETCHER: Emmanuel, do you want me to do mine --
22 say mine before you start?

23 MR. FERGUSON: Yeah, probably, John. It will probably
24 be more efficient that way.

25 MR. FLETCHER: Okay. May it please the Court? My name

1 is John Fletcher. I represent Anne McGill Payne (phonetic),
2 who is the other Defendant in this case. I don't have a lot
3 to add beyond what Bob said. The complaint has some vague
4 details of what Ms. Payne allegedly said but, there are no
5 allegations of time, location, exact substance, to whom the
6 statements were made.

7 Again, I realize that typically, and I've had motions
8 where the Courts say, well, let it go to discovery. You can
9 find that information out. My experience in defamation
10 cases, particularly, has been that if it starts in discovery,
11 then we spend the whole case, kind of, chasing a moving
12 target.

13 Clearly, the Plaintiff has in her mind some specific
14 allegation -- specific statements she believes that my client
15 made, and all we're asking is that they set those forth in
16 the complaint so that we can know exactly what it is that
17 we're -- what is that we're litigating. Of course, if
18 discovery uncovers more information, we would certainly
19 understand an amendment to deal with those. But certainly,
20 the Plaintiff, at this point, knows specific things that she
21 believes that my client said, and must have some information
22 about circumstances. So we're just asking that to be -- to
23 be pled in the complaint.

24 THE COURT: Got it. Okay. Yeah.

25 MR. FERGUSON: Thank you, Your Honor. If it'll please

1 the Court. I'll first address the motion for a more definite
2 statement, just by pointing the Court back to the rule. You
3 know, rule 12 states that a motion for definite statement can
4 be made if the pleading is so vague or ambiguous that a party
5 cannot reasonably be required to frame a response to
6 pleading. That's just not the case here with regard to
7 defamation.

8 In paragraph 33 of the complaint, Ms. Lehman, my client,
9 alleges specific statements that -- she alleges that
10 Ms. Payne, who is an employee of Berkeley County School
11 District, said that she was faking her injuries that she
12 suffered after the October attack. She says that she was
13 called a liar with regard to stealing time at work by not
14 properly filling out her time sheets, and that she was called
15 a bitch by Ms. Payne after her October 13th -- or, excuse me,
16 her October attack.

17 So, here you've got enough in the complaint to -- to
18 reasonably allow a Defendant to respond to that. They've got
19 the person, they've got the place, and they've got the
20 specific statements. Of course, a party would like to know
21 more. That's what discovery is for. So, we're not --
22 Ms. Lehman is not required in her complaint to identify the
23 exact time to the minute or the exact number of times she was
24 called these names, or the room Ms. Payne was sitting in, or
25 the chair she was sitting in when she made those -- those

1 statements, because that's not required for the parties to
2 provide a responsive pleading.

3 And here, that's what a complaint does. Give the
4 parties enough information to provide a responsive pleading.
5 We've got all the elements with regard to defamation in the
6 complaint as to both the school district and to Ms. Payne as
7 an individual. In the complaint, Ms. Lehman alleges that
8 Ms. Payne made these statements on behalf of the school
9 district and in her capacity as an individual. So, there's
10 enough there for both Ms. Payne and the school district to
11 answer the claim with regard to defamation.

12 With regard to the motion to strike, Your Honor, I first
13 want to address the fact that Ms. Lehman is entitled to
14 additional claims of relief, because under this Ludwick case
15 -- excuse me, *Ludwick versus This Minute of South Carolina*,
16 287-SC-19, the Courts have determined that under Ludwick, an
17 action for wrongful discharge is an action in tort. And
18 *Culler versus -- Culler versus Blue Ridge Electric*
19 *Cooperative* at 309-SC-243, says that an action at tort is
20 generally an action at law unless equitable relief is sought.

21 Here, equitable relief is not being sought. Ms. Lehman
22 is not asking for reinstatement, simply, actually, quite
23 frankly, because it wouldn't be feasible, and I'm going to
24 get to that in a second. But she's -- she's asking for
25 compensatory damages instead of equitable relief, and

1 therefore it's our position that she is entitled to seek
2 compensatory damages and entitled to a jury trial.

3 Notably, the Courts -- the Court has acknowledged that
4 some points, especially with regard to employment cases,
5 reinstatement is just simply not feasible. In the *Drew*
6 *versus Waffle House* case at 351-SC-544, the Courts
7 acknowledged that reinstatement of Plaintiff to his position
8 would not be feasible. And here we've got an allegation of
9 defamation, which, if Ms. Lehman, my client, is successful,
10 requiring her to return back and be reinstated in that
11 position would create a work environment that wouldn't be
12 pleasurable for my client, or for the district, or Ms. Payne
13 for that matter.

14 Therefore, the equitable -- the remedies Ms. --
15 Ms. Lehman is seeking are not the equitable remedies, but
16 compensatory remedies which are allowed in cases of wrongful
17 discharges cases. Now, we do make this claim for workers
18 compensation retaliation only because it identifies the
19 public policy where this tort is based on.

20 This case is more akin to a wrongful termination in
21 violation of public policy and, in that manner, when the --
22 when that cause of action is brought, you've got to identify
23 what public policy is being violated. Here, it's the public
24 policy that -- that does not encourage employees to retaliate
25 against their employee -- employers, excuse me, employers who

1 retaliate against their employees for filing worker's
2 compensation claims. And we identify the Worker's
3 Compensation Statute as a basis for that wrongful discharge.

4 So yes, this claim -- this claim is being brought
5 because she was terminated for filing a claim of worker's
6 compensation. But she's not seeking that equitable remedy
7 that the statute allows. But she's instead seeking
8 compensatory remedy, simply because she does have that
9 option. And, as a matter of fact, a -- a -- an equitable
10 remedy of reinstatement just would not be feasible in this
11 matter.

12 THE COURT: So, Mr. Conley is saying that -- that in
13 interpretation of that statutory provision, that the Supreme
14 Court has done two things. Number one, called an equitable
15 cause of action. And then secondly, has indicated that
16 compensatory damages under the statute are not allowable,
17 that what is allowable would be lost wages. And, you know, I
18 have not read the case. Do you know the case in which he
19 speaks?

20 MR. FERGUSON: I don't know the case in which he speaks,
21 but he does cite it in his memo and his motion. And I would
22 argue that that -- that is not mutually exclusive. Here, the
23 Courts, I think, that case is interpreted to mean that,
24 should an employee seek reinstatement, then that is an
25 equitable remedy that does not require a jury trial, and

1 that's the only remedy you can -- you can get.

2 Here, Ms. Lehman is not seeking an equitable remedy with
3 regard to reinstatement. Otherwise, you know, without that
4 statute, an employer is not required in any respects to
5 rehire a person or to reinstate a person. You can't order
6 that reinstatement. In this case, with regard to worker's
7 compensation retaliation, the legislature has added a
8 provision that will require reinstatement for select
9 employees who choose to do so.

10 I mean, you could imagine, you know, an employee who's
11 been working with the State, for example, who needs to get
12 their -- their benefits and retirement, there would be --
13 required to be reinstated if they were terminated under this
14 policy. So here, for my view, the -- the -- the provision
15 that allows reinstatement is supplemented -- there is in
16 addition to the other damages that are available to a
17 Plaintiff who is not seeking that -- that equitable question.

18 THE COURT: So, let me ask you this question. Do you
19 have any case law where an action was brought on the
20 retaliation claim and it was not treated as an equitable
21 cause of action and where the damages, specifically
22 compensatory damages, were allowed?

23 MR. FERGUSON: So, the only case I can find, Your Honor,
24 is *Ladson versus Harvest Hope Food Bank*, which is an
25 unpublished opinion at 2012-UP-292, in the South Carolina

1 Court of Appeals, May of 16th of 2012. Where they cite the
2 statute South Carolina code, 41-1-80, and state that the
3 statute provides for, and I quote, "Compensatory damages to
4 an employee discharged or demoted because the employee has
5 instituted or caused to be instituted in good faith any
6 proceeding under the South Carolina Workers Compensation
7 Law." So that case, I acknowledge it is an unpublished case,
8 seems to point to our position on the matter allowing for
9 compensatory damages to employees under this section.

10 THE COURT: They can't use it as authority.

11 MR. FERGUSON: Only -- well, if I read -- it cannot be
12 used as authority, if I read this -- appellate court rules
13 appropriately, in the courts of appeals. However, circuit
14 courts -- and John, I'm sure, can correct me if I'm wrong
15 here, circuit courts can use it to rely on or for guidance in
16 making a decision. But, that's all I got.

17 THE COURT: It has no presidential value. That's what
18 they say, and that's -- I take them at their word.

19 MR. FERGUSON: Sure.

20 THE COURT: All right. Okay. So, with regards to the
21 defamation, you think that the allegations are sufficient,
22 time, date, statements for the defamation. Is it -- is it
23 slander? It's not liable?

24 MR. FERGUSON: It's slander, Your Honor.

25 THE COURT: Okay.

1 MR. FERGUSON: And with, of course, with the -- during
2 discovery, if we find some written definition, we can
3 (indiscernible).

4 THE COURT: Oh -- yeah. I don't even go there. We --
5 if we can, I don't know that we can agree on anything, we can
6 agree on that. That matters can be amended. All right.
7 Mr. Conley?

8 MR. CONLEY: Just briefly, Your Honor. I'll mention the
9 issues regarding the worker's comp retaliation claim. Number
10 one the Court is probably familiar with, wrongful discharge
11 claims in this state are prohibited if there's a statutory
12 remedy. And in this instance, even if -- even if
13 Mr. Ferguson's client was somehow pursuing a wrongful
14 discharge claim, the fact is, she has a statutory remedy
15 under the -- under the retaliation statute and the -- and the
16 worker's comp act.

17 Secondly, if you look at the complaint, it's not cast as
18 a wrongful discharge claim. It's specifically cast as a
19 worker's comp retaliation claim. Thirdly, Mr. Ferguson cites
20 the Drews case. Notably, the Drews case is not a case that
21 involves worker's comp retaliation. It actually involves an
22 FMLA claim under the Family Medical Leave Act.

23 The fourth thing I would mention is Mr. Ferguson cited
24 this unreported case where he asserts the Court somehow
25 acknowledge that compensatory damages are recoverable under

1 41-1-80. The only thing I would mention is, I would -- if
2 the Court is going to entertain that has some legal precedent
3 here, I would ask the Court to lay eyes on that case itself
4 and see the manner within which the Court made that
5 statement.

6 Because, my reading is, the statement that
7 Mr. Ferguson refers to is, in fact, a parenthetical that
8 attaches to a citation within the opinion. In other words,
9 it's not a holding, it's not reasoning, it's a parenthetical
10 that's -- that's attached to a citation to another case,
11 Judge.

12 All of that taken as a whole, it's our position is, you
13 cannot recover compensatory damages in this state under
14 41-1-80. Whether -- whether a Plaintiff likes it or not, or
15 whether a Plaintiff thinks it's fair or not, the statute says
16 what the statute says. I think most of us are aware of
17 statutory construction in this state. And the fact is, the
18 General Assembly saw fit (indiscernible) there's no mention
19 of compensatory, of any other compensatory damage, or any
20 other recovery or remedy.

21 Two, I think if you -- finally, if you look at the two
22 cases I cited, Supreme Court cases, both cited in the motion.
23 The holding in those cases is that 41-1-80 is an equitable
24 claim. It is -- it is an equitable -- it is an equitable
25 claim. It's not a legal claim. You're not -- you don't have

1 a right to a jury trial.

2 There is case law that Mr. Ferguson cites in his memo
3 where there's some indication that worker's comp retaliation
4 claims, in some instances, might have been tried in front of
5 a jury. However, I think when you look at those opinions,
6 Judge, what you see is that it was by the choice of the
7 parties. In other words, they made a choice to allow certain
8 elements of their claim to be tried in front of a jury. In
9 summation, we simply believe those parts of his complaint
10 should be stricken. She cannot -- his client cannot recover
11 those particular damages.

12 Finally, as to the defamation claim, Your Honor, if you
13 look at paragraph 30, which -- which Mr. Ferguson refers to,
14 paragraph 33, excuse me, in the complaint. If you get to the
15 last sentence, and this is just sort of what the
16 underpinnings of our assessment that he needs to make this
17 claim more definite and certain. The last statement says,
18 "These statements were made during school hours". We don't
19 know what school hours. What -- we don't know what date
20 these were made, just school hours.

21 And more to the point, "And often in the presence of
22 students, parents, or other staff members". We don't know
23 who those people are, Judge. There's been no identification
24 of who these statements were made to. Not a single person
25 that Mr. Fletcher and I can use to somehow determine, did you

1 hear such statements by anybody from the school district?
2 Did you hear such statements from Mr. Fletcher's client? You
3 know, in summary, Judge, we just believe there needs to be
4 some more detail in terms of the five items laid out in the
5 motion, making the claim more definite and certain. Thank
6 you.

7 THE COURT: Got it. Got it. Gentlemen, proposed
8 orders, please, in 30. And send them, please, to your
9 opposing Counsel as you -- at or before the time that you
10 send them to me. Obviously, going to be addressing the
11 motion as it relates to your client. And it very well may be
12 that -- trying to think, I think that it's probably more
13 appropriate to just have an order for each. I know it's a
14 little more cumbersome, but I think, maybe, it's going to be
15 a little bit clearer if we can do it that way.

16 MR. FERGUSON: An order for each meaning, I need to do
17 two proposed orders for each defamation claim, and then one
18 proposed order for the motion to strike. So, three in total?

19 THE COURT: That's a great -- that's a great question.
20 I'm really more concerned with addressing the individuals,
21 because they're a little bit different. And I -- well, why
22 don't I ask, why don't I ask you all to weigh in. Here's my
23 concern. My concern is, is it -- there's some similarity
24 between the parties, but they're not identical. And, you
25 know...

1 MR. FERGUSON: If I could suggest, and I'm just throwing
2 it out there, Your Honor, one proposed order with three sub
3 parts. You know, section one would be defamation as to the
4 individual. Section two, defamation as to the school
5 district. Section three, motion to strike. And then, in one
6 order, we could separate all three issues, because all the
7 facts are the same, but then the three arguments could be in
8 three separate subsections.

9 THE COURT: That's fine. And I'll just cut and paste if
10 I need some from column A and some from column B, I can
11 certainly accommodate. That would be fine.

12 MR. FERGUSON: Excellent.

13 THE COURT: Thank you.

14 MR. CONLEY: Thank you for your time, Judge. Have a
15 nice evening.

16 MR. FLETCHER: Thank you, Your Honor.

17 THE COURT: Y'all have a great one.

18
19
20
21
22 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED)
23
24
25

CERTIFICATE OF TRANSCRIBER

State of South Carolina

County of Berkeley

I, AMANDA WATSON, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in South Carolina Circuit Court 9, Berkeley, South Carolina, on the 17th day of July, 2025.

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

A handwritten signature in black ink, appearing to read "Amanda Watson", is written over a horizontal line.

AMANDA WATSON, TRANSCRIBER

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Honorable Circuit Court Judge Dianne S. Goodstein

Case No. 2024-CP-08-03367

Stephanie Lehman,

Respondent,

v.

Berkeley County School District and
Anne-Magill Payne, individually, and as an
agent of Berkeley County School District,

of whom Berkeley County School District
is Appellant,

Appellant.

NOTICE OF APPEAL

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RECEIVED
Jan 06 2026
SC Court of Appeals

TO THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS:

Appellant Berkeley County School District hereby appeals the Order of the Honorable Dianne S. Goodstein attached as Exhibit A, dated November 6, 2025, and filed with the Berkeley County Clerk of Court on November 6, 2025. Appellant received written notice of the entry of the Order on November 6, 2025, and, thereafter, served and filed a Motion to Alter or Amend on November 17, 2025.

The Honorable Dianne S. Goodstein issued an Order, attached as Exhibit B, dated December 8, 2025, and filed with the Berkeley County Clerk of Court on December 8, 2025, denying Appellant's Motion to Alter or Amend. Appellant received written notice of the Order denying its Motion to Alter or Amend on December 8, 2025.

Respectfully submitted,

s/ Bob J. Conley
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IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Honorable Circuit Court Judge Dianne S. Goodstein

Case No. 2026-000034

Stephanie Lehman,

Respondent,

v.

Berkeley County School District and
Anne-Magill Payne, individually, and as an
agent of Berkeley County School District, Defendants,

of which Berkeley County School District
is the Appellant,

Appellant.

CERTIFICATE OF RECORD ON APPEAL

The undersigned hereby certifies that the Record on Appeal contains all material proposed
to be included by any of the parties and not any other material.

Respectfully submitted,

s/ Bob J. Conley

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Date: September 30, 2026