

Oct 23 2026

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM BERKELEY COUNTY

Court of Common Pleas

Dale E. Van Slambrook, Circuit Court Judge

Order Dismissing Case No. 2026-001501 (S.C.
Ct. App. filed Sept. 23, 2026)

Joy D. Phillips individually
and as guardian of Sierra A.
Phillips, and James C. Phillips,

Respondents,

v.

Community Options, Inc., Angela
Stuckey, Shirley Anderson, and Willa
Manigault,

Petitioners.

APPENDIX

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¹ The Court of Appeals dismissed the appeal before the Parties had an opportunity to submit a Record on Appeal. Therefore, Petitioners submit this Appendix pursuant to Rule 242(e)(2) (“If the matter was dismissed by the Court of Appeals for procedural or other reasons, the Appendix shall include any documents relevant to the dismissal including any motion to dismiss and any return or reply that may have been filed.”).

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STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

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IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Joy D. Phillips individually and
as guardian of Sierra A. Phillips,
and James C. Phillips,

Plaintiffs,

v.

Community Options, Inc.,
Angela Stuckey, Shirley Anderson,
and Willa Manigault,

Defendants.

C/A No.: 2023-CP-08-03019

**ORDER GRANTING
PLAINTIFFS' MOTION
TO COMPEL DOCUMENT
REQUEST NO. 12**

This matter is before the Court via WebEx on January 5, 2026 on Plaintiffs Joy D. Phillips and James C. Phillips' motion to compel Defendants Angela Stuckey, Shirley Anderson, and Willa Manigault in response to document Request No. 12, which seeks communications relating to (a) Sierra A. Phillips, a vulnerable adult and the daughter of the Phillips, (b & c) the Plaintiffs, and (d & e) reports of abuse, neglect, or injury of any resident of a Community Options facility, including the Thistle Community Training Home (CTH) II where Sierra resided.¹ Specifically, the Phillips ask the Court to compel Stuckey, Anderson, and Manigault to surrender their personal cell phones to their lawyer for a forensic examination and collection of text messages and production of the same. The Phillips argue that such messages do, in fact, exist and pertain to core contentions in this case. Attorney Chris Kenney was present on behalf of Plaintiffs and attorney Ashley Heslop attended on behalf of Defendants. The Court heard from the parties and reviewed all available memoranda. For reasons that follow, the motion is **GRANTED**.

¹ All findings of fact and conclusions of law indicated in this Order are made for the purpose of ruling on this motion only.

FACTUAL AND PROCEEDURAL BACKGROUND

The Court has carefully reviewed the submissions of the parties and the record in this case. The factual and procedural background here is complicated but important to this discovery dispute.

The Phillips' Allegations and Claims

According to the Complaint, Sierra is a 27-year-old woman with autism, dwarfism, a heart condition, ADHD, and the mental ability of an 8 to 10-year-old child who was residing in the Thistle CTH II group home for adults with special needs run by Defendant Community Options, Inc. *See* Compl. ¶¶ 6, 11. The Phillips allege that for months, Community Options' employees physically abused Sierra by hitting and kicking her. *See id.* ¶¶ 47–56, 86–91. They allege that, when the staff believed the Phillips might discover the abuse, staff made a false police report accusing the Phillips of physically and sexually abusing their own child. *See id.* ¶¶ 57–85. The Phillips allege that they were investigated by four different police agencies, cooperated fully, sat for interviews, and were cleared by police after 41 days of being restricted from seeing their daughter. *See id.* ¶¶ 79–85. Thereafter, they removed Sierra from Thistle CTH II and brought this action for themselves and Sierra for (1) assault and battery, (2) defamation, (3) civil conspiracy, and (4) negligent hiring and supervision. *Id.* ¶¶ 92–119. The Defendants deny these allegations.

Service of Request No. 12.

This action was filed on October 25, 2023. Discovery, including Request No. 12, was served on Stuckey, Anderson, and Manigault with the Summons and Complaint on October 26, 2023, November 7, 2023, and October 26, 2023, respectively.

On January 11, 2024, all Defendants served responses and objections to the discovery with an initial document production of 21 PDF files consisting of 3,894 pages. No native files or text messages were produced. In response Request No. 12, the Defendants responded:

RESPONSE: Community Options objects to this Request to the extent it seeks the disclosure of information prepared in anticipation of litigation, and information protected by the attorney-client and/or work product privileges. Notwithstanding said objections, please see documents provided herewith.

STUCKEY RESPONSE: See Community Options' Response, incorporating all objections.

ANDERSON RESPONSE: See Community Options' Response, incorporating all objections.

MANIGAULT RESPONSE: See Community Options' Response, incorporating all objections.

DEFs' Resp. RFP 12 (bold and underline original).

On March 5, 2024, the Phillips' counsel sent correspondence outlining nine areas of concern and requested a response or reconsideration of the Defendants' position. See PL's MTC at Ex. A. On April 1, 2024, the Phillips moved to compel.

On August 12, 2024, the Clerk issued a notice that the motion would be heard on August 28, 2024. The day before the hearing, the Defendants sent the Phillips a second document production and Defendants' counsel indicated supplemental written responses would follow that would hopefully resolve some outstanding issues. By agreement, the hearing was continued.

On August 30, 2024, the Phillips received a first supplemental response, but it did not include any supplemental production in response to Request No. 12.

On September 19, 2024, the Defendants served a second supplemental response that included one two-page document purporting to be text messages to or from Manigault concerning

Sierra. *See* Phillips_Manigault Text Msgs_0001–02. It is not clear who it was sent to or when. No other text messages from Stuckey, Anderson, and Manigault have been produced.

Stuckey, Anderson, and Manigault’s Depositions

On May 28 and 29, 2025, Stuckey, Anderson, and Manigault were deposed. Notably, all three individuals testified about using their personal cell phones to send work-related texts.

Anderson testified that, on January 2, 2023, she texted from her phone photos she took of Sierra’s bottom with red markings to Stuckey and a Community Options supervisor at the time the allegations against the Phillips were made. *See* Anderson Dep. 41–43, 49–51.² These texts have never been produced, just the photos. Anderson also testified that she would text Stuckey or Manigault using her phone “[t]o let them know something, yes.” *Id.* at 87. When asked if she still had those messages on her phone, Anderson claimed her phone “got messed up, and it had to be reset, yes, so I don’t have those messages anymore.” *Id.* at 87–88. During her deposition—i.e., more than 18 months after she was served with Request No. 12—Anderson testified that she lost these messages “about a month ago.” *Id.* Anderson testified that she never provided her lawyer with access to her phone. *Id.* at 88–89.

Similarly, Stuckey testified that she texts with her work colleagues about what is going on at the group home. *See* Stuckey Dep. 150–51. Stuckey testified that she received the photos of Sierra’s bottom from Anderson via text. *Id.* at 154, 190. Stuckey also testified that she has replaced her phone “two or three times probably” since then but that when she replaced her phone, she migrated the old data to the new phone. *Id.* at 110–11. However, Stuckey also testified: “I always

² Citations to deposition testimony refer to the transcripts filed as Exhibits B, C, and D to the motion to compel Request No. 12, filed on August 28, 2025.

clean my phone out. I clean my phone out basically every day. ... I delete what doesn't need to be because -- for a job reason." *Id.* at 111–12.

Manigault also testified that she texts “back and forth” with her co-workers about work on her personal phone. *See* Manigault Dep. 19–20. Manigault testified that she reviewed her phone (not her lawyer) and produced a single two-page document of a text message to her supervisor Carolyn White. When asked about other text messages to White, she answered:

Q. Is there -- I assume this is not the only time you've texted Ms. White.

A. No, I don't think that's the only time I texted Ms. White.

Id. at 21–22. Manigault maintained that, based on her review, the only text she found “for Sierra” was the two-page document marked Phillips_Manigault Text Msgs_0001–02. *Id.* at 23. Notably, Request No. 12 is not limited to communications solely about Sierra.

Motion and Hearing on the Motion

On August 28, 2025, the Phillips filed this motion asking the Court to (1) overrule all objections to Request No. 12, (2) order Defendants' counsel to forensically collect the individual Defendants' personal phones and produce responsive text messages, and (3) sanction the individual Defendants with a spoliation instruction if the messages cannot be retrieved. *See* PLs' MTC Req. No. 12, p. 10.

On January 5, 2026, the motion came before the Court for a hearing via the WebEx virtual courtroom.³ The Phillips were represented by Christopher P. Kenney, Esq., of Chris Kenney Law. The Defendants were represented by Ashley Heslop, Esq., of Hall Booth Smith, P.C.

³ Citations to the January 5 hearing refer to the hearing transcript, filed March 16, 2026.

During the hearing, Defendants' counsel acknowledged there were text messages between the individual Defendants with photos of Sierra that were purportedly taken at the time the allegations against the Phillips were made, but argued "there was a gap" between the time Sierra left Community Options and when the litigation was filed and that "some of them have gotten new phones over the time frame, some of them have updated phones." Hr.'g Tr. 8–9. The Phillips dispute this contention, arguing that the individual Defendants were served with Request No. 12 in the same calendar year as the messages with the photo and there has been "no effort" by the Defendants to retrieve the messages. *Id.* at 9. The Phillips pointed to testimony from Anderson claiming she "lost" the messages one month prior to her deposition and testimony from Stuckey that she has deleted messages since this litigation began. *See id.* at 9–10. They also argued that when phones are upgraded, old data migrates to the new phone. *See id.*

The Phillips urged the Court to order the individual Defendants to provide their phones to their lawyer for a forensic collection and review and to require filed affidavits explaining what was done to retrieve the information. Hr.'g Tr. 11–12. The Defendants object to this procedure. Defendants' counsel told the Court that neither she nor her office ever inspected the phones for discoverable evidence; "Instead, I asked them [i.e., the individual Defendants], Check your phones, look for anything." *See id.* at 13–14. The Phillips' counsel argued this was a sanctionable admission and disputed the contention that since the individual Defendants "didn't come up with any incriminating messages, [counsel had] no obligation as the lawyers to go and check or to require the client to turn the phone over[.]" *Id.* at 17–18.

LEGAL STANDARD

A trial court's rulings on discovery matters will not be disturbed on appeal absent a clear abuse of discretion. *Arthur v. Sexton Dental Clinic*, 368 S.C. 326, 333, 628 S.E.2d 894, 898 (Ct.

App. 2006). An abuse of discretion occurs when the ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support. *Id.*

CONCLUSIONS OF LAW

The question here is whether Stuckey, Anderson, and Manigault have done enough to collect, review, and produce potentially responsive text messages and, if not, what should be done now to ensure the evidence is gathered and produced. The Court is persuaded by both the facts and the law that the individual Defendants have not fulfilled their obligations under Rules 26 and 34, SCRCP, to diligently collect, review, and produce text messages the Phillips have been requesting since 2023. The motion is **GRANTED** for the following four reasons.

First, text messages responsive to Request No. 12 are undoubtedly relevant within the meaning of Rule 26(b)(1), SCRCP. This case is about allegations that the individual Defendants abused Sierra and sought to cover it up by falsely accusing her parents. Notably, these allegations are hotly contested. As the Phillips argue, “In this case, someone is not telling the truth about what happened to Sierra, which makes contemporaneous text message communications from and between the Defendants critical, perishable evidence.” MTC Req. No. 12, p.6. The Court agrees and concludes that discovery of text messages that relate to Sierra, the Phillips, and reports of abuse, neglect, or injury of a Community Options resident are relevant to this case.

Second, the Court is persuaded by the evidence that responsive text messages do, in fact, exist. The Defendants argue that the “suggestion that Individual Defendants have failed to disclose all accessible relevant data is based on *pure speculation*,” Defs.’ MIO, 10 (emphasis added). The Court disagrees.

Stuckey, Anderson, and Manigault all testified that they used their personal phones to send work-related text messages. According to Stuckey and Anderson, when the abuse allegations were

made on January 2, 2023, and photos were taken of Sierra, the photos were exchanged via text message. Whatever messages were sent, they are obviously relevant and must be produced.

Furthermore, the Phillips point to another text message from December 19, 2022, that Stuckey sent to her supervisor but erroneously included Joy Phillips. *See* MTC Req. No. 12 at Ex. A. In it, Stuckey refers to one of the vulnerable adults as “to [sic] special” and tells her supervisor: “Been at work since 12 last night right now F all then.” *Id.* During her deposition, Stuckey confirmed she was using a four-letter expletive when referring to Sierra and the other vulnerable adults in the group home. *See* Stuckey Dep. 198–205. This message was never produced by the Defendants and confirms precisely what the individual Defendants all testified to during their depositions: namely, that they used their personal phones to discuss work.

It is clear based on this record that responsive messages exist but that, instead of collecting the phones and reviewing the messages for responsiveness, counsel left it to the individual Defendants to decide whether they had responsive messages. The Phillips argue it is not surprising that these individuals failed to produce self-incriminating messages; however, the Court notes that, even if the individual Defendants acted in good faith, they may have required some technical assistance to ensure they were properly identifying potentially discoverable information for further review, but that no such assistance was given. Considering that the record demonstrates the existence of responsive yet unproduced messages, court intervention is now appropriate.

Third, the Defendants’ legal position is also untenable. They urge the Court that “[t]he only text message that has been discussed” is one message sending the photos, *see* Hr.’g Tr. 16, and suggest that the Phillips must prove the existence of other messages before the Defendants are obligated to search for them. *Cf.* Hr.’g Tr. 8, 19 (arguing there has been “no testimony” about the existence of responsive text messages). This is incorrect.

Nothing in the discovery rules places the burden on the requesting party to prove the existence of information requested before the disclosing party is obliged to search for it. When there is no responsive information, the responding party should simply state as much and provide the appropriate certification of the same. *See* Rule 26(g), SCRCF. That is not the case here; here, the Defendants object to responding to Request No. 12.

When a party objects to disclosure, as the Defendants did here, the burden is first on the objecting party to “show[] a particularized harm” that constitutes good cause to protect the disclosing party from annoyance, embarrassment, oppression, or undue burden. *See Hollman v. Woolfson*, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009); *see also* Rule 26(c), SCRCF. Once this initial showing is made, the burden shifts to the requestor to demonstrate relevance and necessity, after which a court will balance any competing concerns. *See id.*

The Defendants’ position is untethered from this framework because they make no factual showing in support of their objections. Defendants’ memorandum is replete with general assertions about courts imposing discovery limits and individual privacy concerns. *See, e.g.,* Defs.’ MIO, 6–7, 10–12. This Court is mindful of its need to impose reasonable limits on discovery and the privacy concerns implicated by cell phone productions. But none of these general principles override the specific facts or the need for the information requested in this case. Cell phone information is not immune to civil discovery, and the Phillips are not proposing that Stuckey, Anderson, and Manigault hand over their devices to Plaintiffs’ counsel for unrestricted review. Instead, the Phillips are asking that the Defendants’ lawyer review the messages with the assistance of a forensic expert and then produce responsive messages. This procedure—requiring collection, review, and production—is no different than the procedure used to produce every other type of document and tangible thing discoverable under Rule 34, SCRCF.

Fourth, while the Court is reserving any ruling on the question of spoliation or sanctions, it is mindful that litigants have duty to ensure perishable evidence is not destroyed during the pendency of a lawsuit. The duty to preserve material evidence attaches when “a party reasonably should know that the evidence may be relevant to anticipated litigation.” *Silvestri v. Gen. Motors Corp.*, 271 F.3d 583, 590–591 (4th Cir. 2001); *see also Kershaw County Bd. of Educ. v. U.S. Gypsum Co.*, 302 S.C. 390, 394, 396 S.E.2d 369, 372 (1990) (explaining an adverse inference may be drawn when evidence is lost or destroyed by a party).

Here, there has been testimony from the individual Defendants that they deleted messages and changed phones. Whether those messages can be recovered is presently unknown, but the Court believes the individual Defendants should try before any decision is made concerning spoliation. The Phillips’ counsel has proposed a protocol for a forensic expert to attempt to retrieve those messages and then furnish whatever is recovered to Defendants’ counsel for a relevance review and production. *See Hr.’g Tr.* 11–12. Because the information sought is discoverable and involving an expert may obviate the need for further proceedings on this issue, the Court agrees a forensic collection and review is needed. The individual Defendants had ample opportunity to avoid this by performing their own diligent search for the requested information. Instead, they objected to Request No. 12, only for the Phillips to demonstrate through other discovery that such information does, in fact, exist. Given these inconsistencies, the Court will now order a more formal protocol. *Cf. Bennett, v. State Farm Fire & Cas. Co., Inc.*, No. 6:23-CV-04234-DCC-KFM, 2025 WL 4234017, at *2 (D.S.C. Jan. 13, 2025) (adopting forensic protocol for phone imaging due to “inconsistencies on the record”).

CONCLUSION

For the reasons set forth above, the motion is **GRANTED** and the Court **ORDERS** the following relief:

1. All objections to Request No. 12 are **OVERRULED** except for any claim under the attorney-client privilege, which must be made through a detailed privilege log.
2. Within 30 days of this Order being filed, the individual Defendants **SHALL** surrender all phones in their possession, including phones that are no longer being used, to their counsel for an expert forensic collection and copying, at the Defendants' expense, of all accessible text messages from January 1, 2017, through October 25, 2023. This collection effort **SHALL** include a documented effort to recover any potentially available text messages from any backup copies of phone data and "Cloud" services (e.g., iCloud, Microsoft 365, etc.).
3. Within 60 days of this Order, Defendants' counsel **SHALL** review all recovered text messages for responsiveness to Request No. 12 and produce the text messages in Excel/csv, PDF, and native forms with all associated attachments in native form to Plaintiffs' counsel along with a privilege log itemizing any claims of attorney-client privilege. Responsive communications referring to vulnerable adults other than Sierra may be redacted to redact the names of those individuals. The communication may also be marked "confidential" under the existing Confidentiality Order (filed Jan. 11, 2024).

4. With the above-referenced production, Defendants **SHALL** serve an affidavit from the forensic expert detailing the devices inspected, the procedures used to recover and collect text messages, whether recovery and collection was successful and if not, why, and the number of potentially responsive messages collected as a result.
5. With the above-referenced production, Defendants **SHALL** also serve an affidavit from their counsel attesting to the procedures used to review and produce collected messages for responsiveness to Request No. 12.
6. Within 30 days of receiving the above-referenced production from the Defendants, the Phillips **SHALL** either file a notice stating that this motion is resolved or file a renewed motion for further proceedings consistent with this Order.

The Court **SHALL** retain jurisdiction of this motion to ensure compliance with this Order and for any further proceedings. The issues pertaining to spoliation and sanctions are reserved.

AND IT IS SO ORDERED.

[Judge's signature page follows]



Berkeley Common Pleas

Case Caption: Joy D. Phillips , plaintiff, et al VS Community Options, Inc. ,
defendant, et al

Case Number: 2023CP0803019

Type: Order/Other

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge
#2781

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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. 2023 CP-08-03019

Joy D. Phillips individually and as guardian of
Sierra A. Phillips, and James C. Phillips

Community Options, Inc., Angela Stuckey,
Shirley Anderson, and Willa Manigault

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: The Court

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

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. ☐ See Page 2 for additional information.
- ☐ **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: This matter came before the Court on the Defendant Motion to Alter, Amend, and/or Reconsider, filed on April 3, 2026. The Defendant asks the Court to Reconsider its Order, filed on March 25, 2026 that granted Plaintiff's Motion to Compel. The Court timely received a copy of the Motion for Reconsideration; a Memorandum in Opposition was filed by Plaintiff. This motion is disposed of without the necessity of a hearing and decided on the record and briefs.

"The purpose of Rule 59(e), SCRPC, to alter or amend the judgment is to request the trial judge to reconsider matters properly encompassed in a decision on the merits." *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). "A party may wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised but not ruled on, in order to preserve it for appellate review." *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004)(emphasis in original). "A party cannot use a motion to reconsider to present an issue he could have raised prior to judgment but did not." *Anderson Memorial Hosp., Inc., v. Hagen*, 313 S.C. 389, 434 S.E.2d 268 (1993; See also *Arnold v. State*, 309 S.C. 157, 172-173, 420 S.E.2d 834, 842 (1992).

Defendant assertions that the Order entered by the Court exceeded the scope of the requested relief is without merit. The Court carefully considered the Plaintiff's request, Defendant objections, and burdens/protections available to Defendant.

After consideration of the record, as well as the various interests balanced by the Court at the time of the ruling, the Defendant Motion to Alter, Amend, and/or Reconsider is heard and on the basis of the rationale set forth in the Plaintiff Memorandum in Opposition is respectfully **DENIED**.

Further, the Plaintiff request for attorney fees related to filing its responsive pleadings is likewise **DENIED**.

AND IT IS SO ORDERED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, 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 judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

[illegible]



Berkeley Common Pleas

Case Caption: Joy D. Phillips , plaintiff, et al VS Community Options, Inc. ,
defendant, et al

Case Number: 2023CP0803019

Type: Order/Form 4

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge
#2781

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STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

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)
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IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Joy D. Phillips individually and
as guardian of Sierra A. Phillips,
and James C. Phillips,

Plaintiffs,

v.

Community Options, Inc.,
Angela Stuckey, Shirley Anderson,
and Willa Manigault,

Defendants.

C/A No.: 2023-CP-08-03019

**PLAINTIFFS' MOTION
TO COMPEL DOCUMENT
REQUEST NO. 12 AND FOR
SPOILATION INSTRUCTION**

This case is about abuse of a vulnerable adult in a group home and a specious allegation made about her parent because of markings observed on the young woman's bottom. This motion is about the text messages that Plaintiffs Joy D. Phillips, individually and as guardian of Sierra A. Phillips, and James C. Phillips requested that Defendants Angela Stuckey, Shirley Anderson, and Willa Manigault provide in response to discovery.

Stuckey, Anderson, and Manigault used their personal phones to exchange messages about their work in the group home run by their employer, Defendant Community Options, Inc. On at least one occasion, on December 19, 2022, Stuckey texted about Sierra and her housemates with Community Options program manager Carolyn White who mistakenly added Joy to a text message thread with Stuckey, resulting in the following exchange:

White: Really she's to [sic] special

Joy: Huh?

White: I'm forwarding this I'm out of town.

Joy: I was just wondering why you sent me a text that said “really she’s so special”.

Stuckey: *Been at work since 12 last night right now F all them.*

White: Sorry wrong person vacation mode.

PHILLIPS_000728 (emphasis added) (**Exhibit A**). Stuckey conceded during her deposition that what she meant by “F all them” was “fuck all them,” and that the “them” she was referring to was Sierra and the other vulnerable adults living in Community Options’ Thistle III group home. See Stuckey Dep. 198–205 (excerpts at **Exhibit B**).

Plaintiffs previously withdrew a motion to compel on the promise that Defendants would supplement their discovery responses, but only one text message was provided. Having now taken the individual Defendants’ depositions, Plaintiffs move under Rules 26, 34, and 37 of the South Carolina Rules of Civil Procedure to compel production of communications in response to document Request No. 12. If the messages cannot be retrieved, a spoliation sanction is warranted.

FACTUAL AND PROCEDURAL BACKGROUND

Sierra is a 27-year-old woman with autism, dwarfism, a heart condition, ADHD, and the mental ability of an 8 to 10-year-old child (among other conditions) who was residing in a group home for adults with special needs run by Community Options. Compl. ¶¶ 6, 11. For months, Community Options’ employees—i.e., the individual Defendants—physically abused Sierra by hitting and kicking her. See id. ¶¶ 47–56, 86–91. When the staff believed Sierra’s parents, Joy and Chris, might discover the abuse, they made a false police report of the most heinous nature—accusing Joy and Chris of physically and sexually abusing their own child. Id. ¶¶ 57–85. Joy and Chris were investigated by *four* different police agencies, cooperated fully, sat for interviews, and were cleared by police after 41 days of being restricted from seeing their daughter. See id. ¶¶ 79–

85. Thereafter, Joy and Chris immediately removed Sierra from Community Options' so-called care and brought this action for themselves and Sierra for (1) assault and battery, (2) defamation, (3) civil conspiracy, and (4) negligent hiring and supervision. Id. ¶¶ 92–119.

Document Request No. 12

Document Request No. 12 was served with the Summons and Complaint in November 2023—i.e., 21 months ago. On January 11, 2024, Defendants served responses and objections along with an initial production of just 21 PDF files consisting of 3,894 pages. No native files or text messages were produced. In response to document Request No. 12, Defendants responded:

12. All communications (e.g., letters, emails, text messages, direct messages, social media messages, etc.) relating to:
 - a. Sierra,
 - b. Joy,
 - c. Chris,
 - d. Reports of abuse, neglect, or injury of any resident of Thistle CTH II.
 - e. Reports of abuse, neglect, or injury of any resident in a Community Options' facility or home.

RESPONSE: Community Options objects to this Request to the extent it seeks the disclosure of information prepared in anticipation of litigation, and information protected by the attorney-client and/or work product privileges. Notwithstanding said objections, please see documents provided herewith.

STUCKEY RESPONSE: See Community Options' Response, incorporating all objections.

ANDERSON RESPONSE: See Community Options' Response, incorporating all objections.

MANIGAULT RESPONSE: See Community Options' Response, incorporating all objections.

DEFs' Resp. RFP (served Jan. 11, 2024) (bold and underline original).

On March 5, 2024, Plaintiffs' counsel sent correspondence outlining nine areas of concern and inviting a response or reconsideration of Defendants' position. See PL's MTC at Ex. A. On April 1, 2024, Plaintiffs moved to compel.

On August 12, 2024, the Clerk issued a notice that the motion would be heard on August 28, 2024. The day before the hearing, Defendants sent Plaintiffs a second document production and counsel indicated supplemental written responses would follow that would hopefully resolve some of the outstanding matters. The hearing was continued.

On August 30, 2024, Plaintiffs received a first supplemental response including (in relevant part) interrogatory responses from Stuckey, Anderson, and Manigault with their mobile phone numbers and carriers. No supplemental production was made in response to Request No. 12.

On September 19, 2024, Defendants served a second supplemental response that included one two-page document purporting to be text messages to or from Manigault concerning Sierra. See Phillips_Manigault Text Msgs_0001–02. It is not clear from the document who it was sent to or when, and its subject matter is of marginal probity. No other text messages from Stuckey, Anderson, and Manigault have been produced.

On May 28 and 29, 2025, Stuckey, Anderson, and Manigault were deposed.

Anderson's Testimony

Initially Anderson claimed she “never” texted for work using her personal phone but then testified that (in fact) she texted photos she took of Sierra's bottom with red markings to Stuckey and White at the time the allegation was made. See Anderson Dep. 40–41, 49–51 (excerpts at **Exhibit C**). Anderson also conceded she would text Stuckey or Manigault using her phone “[t]o let them know something, yes.” Id. at 87. When asked if she still had those messages on her phone, Anderson claimed her phone “got messed up, and it had to been reset, yes, so I don't have those

messages anymore.” Id. at 87–88. Anderson claimed she lost these messages “about a month ago.” (id.)—i.e., well after this case was filed and she was served with document requests, including Request No. 12. Anderson never provided her lawyer with access to her phone. Id. at 88–89.

Stuckey’s Testimony

Stuckey also testified that she texts the women she works with about what is going on at the group home. See Stuckey Dep. 150–51. Stuckey confirmed Anderson’s story, claiming she received the photos of Sierra from Anderson via text. Id. at 154, 190. Stuckey testified that she has replaced her phone “two or three times probably” since the time in question but that when she replaced her phone, she migrated the old data to the new phone. Stuckey Dep. 110–11. However, when asked if she has deleted anything, Stuckey explained she had deleted messages: “I always clean my phone out. I clean my phone out basically every day. ... I delete what doesn’t need to be because -- for a job reason.” Id. at 111–12.

Manigault’s Testimony

Likewise, Manigault testified she texts “back and forth” with her co-workers about work on her personal phone. See Manigault Dep. 19–20 (excerpts at **Exhibit D**). Manigault claimed she reviewed her phone (not her lawyer) and produced a single two-page document to her lawyer with a purported text message to White. When asked about other text messages to White, she explained:

Q. Is there -- I assume this is not the only time you’ve texted Ms. White.

A. No, I don’t think that’s the only time I texted Ms. White.

Id. 21–22. Manigault maintained that, based on her personal review, the only text she found “for Sierra” was the two-page document marked Phillips_Manigault Text Msgs_0001–02. Id. at 23.

LEGAL STANDARD

A trial court's rulings on discovery matters will not be disturbed on appeal absent a clear abuse of discretion. Arthur v. Sexton Dental Clinic, 368 S.C. 326, 333, 628 S.E.2d 894, 898 (Ct. App. 2006). An abuse of discretion occurs when the ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support. Id.

ARGUMENT

The Court should grant this motion and order Anderson, Stuckey, and Manigault to provide their phones *to their counsel* so counsel can conduct a forensic collection and review of the phones for text messages and other communications responsive to Request No. 12. It is undisputed that messages exist—messages like the “F all them” message *and* texts sent on the day markings were purportedly first observed on Sierra's bottom. Based on their testimony, there should be numerous other potentially responsive messages that have not been collected, reviewed, and produced. These Defendants cannot be trusted to perform that collection, review, and production; their counsel should be ordered to do it.

Furthermore, if the messages from the relevant period cannot be retrieved for review, then the Court should impose a spoliation sanction as a penalty for Defendants admitted destruction of electronically stored information (ESI). These points are considered in turn.

I. The Court should order Defendants' counsel to forensically collect, review, and produce text messages from Anderson, Stuckey, and Manigault's phones.

In this case, someone is not telling the truth about what happened to Sierra, which makes contemporaneous text message communications from and between the Defendants critical, perishable evidence. The importance of this evidence is best illustrated by the timeline leading up to the report of sexual abuse and the testimony of another (former) Community Options caregiver

Loletta Johnson. Simply put, the injuries on Sierra's bottom occurred *after* her parents dropped her back off at the group home, and Johnson's testimony establishes this fact.

On December 28, 2022, Sierra's sister picked Sierra up from the group home and drove her to meet Joy and Chris for a visit to the family timeshare in Surfside Beach. Compl. ¶ 38. On December 31, 2022, Joy and Chris returned Sierra to the group home. Id. ¶ 44. Manigault was present when Sierra returned. Id. ¶ 45. Joy told Manigault that she and Chris would pick Sierra back up on January 8 for a week-long trip to Disney World. Id. ¶ 46. On the evening of January 3, 2023, Sierra was having a behavior and refusing to take a shower, causing Anderson and Manigault to become upset with her and kick her from behind on her backside and between her legs. Id. ¶ 62. Sierra relented and agreed to shower. Id. ¶ 62. The Defendants dispute these assertions. Anderson claimed she observed the red markings on Sierra's bottom on January 2 at 4:42 pm and that Sierra told her the markings were from her father hitting her with a belt. See Anderson Dep. 42–46. According to Anderson, this report prompted her to take photos, report the statement to Community Options, and report the statement SLED. See id. at 46–49.

Johnson was also employed by Community Options and worked in the Thistle home during the time in question. Body checks or body audits are a visual inspection of a group home resident (typically performed during a shower) by a caregiver who documents any markings or bruising on a paper record. Johnson Dep. 44–45 (**Exhibit E**). On December 31, 2022, *after Sierra's parents returned her to the group home*, Johnson was working 2nd shift and performed a body audit on Sierra: "Q. ... Okay. And what did you indicate under description of injury? A. Nothing new to report." Id. at 49–50. "Q. All right. Is this document indicating that there was nothing to report, is it true and accurate? A. Correct." Id. at 50. Again, on January 1, 2023, Johnson performed a body audit on Sierra and reported no observable injuries. Id. at 52–53. Johnson explained that had she

seen a mark on Sierra, she would have noted it in the body audit and let Stuckey know and then contacted Community Options' office. Id. at 50. Thus, according to Johnson's testimony and two body audits that she performed and documented on December 31 and January 1,¹ whatever caused the red markings on Sierra's bottom that were observed on January 2, it *wasn't* from the visit with her family that ended on December 31.

Johnson's testimony corroborates Plaintiffs' allegations and implicates the Defendants in other ways. For example, Johnson recalled hearing Manigault make "little comments like, I had to snatch the little B up today," referring to one of the vulnerable adults as a "bitch." See Johnson Dep. 60–62. She also recalled Stuckey reporting to her that she (Stuckey) had to "physically restrain" Sierra, even though Johnson never had any problems with Sierra nor saw her become physical with anyone else. Id. at 62–64. She also testified that Sierra made statements to her like, "Ms. Willa [Manigault] hit me or Angela [Stuckey] threatened me or hit me or something like that" but Johnson discounted those statements at the time. See id. at 68–70.

Johnson also described witnessing Stuckey yelling at Sierra and slamming her bedroom door: "She's loud. So she may go in and be like, Sierra, I told you to do such and such and such, and you hear the door slam, and all of a sudden it's dead silence. And now Sierra's doing what she needs to do[.]" Id. at 81–83. When Sierra was having a behavior and Johnson needed to persuade her to comply, she could invoke Stuckey's name which would prompt a "fear" response from the young woman who would then "immediately" comply. See id. at 71–72, 82 ("Q. ... Did you ever yell at Sierra? A. No, I just had to use the famous word. Q. Which was? A. Ms. Angela.").

¹ Notably, another Community Options employee also created a body audit for Sierra reporting "nothing new to report" on January 1: Shirley Anderson. See Anderson Dep. 63. During her deposition, Anderson claimed that she did not, in fact, shower Sierra that day, and therefore did not perform a body audit. See id. at 63–66. Eventually she conceded that the document she prepared and signed her name to was untrue. Id. at 123 ("A. Yes, it's untrue.").

According to Johnson, Sierra's personal tablet was "always" locked in the closet as a punishment for something, as was other personal property important to Sierra. See id. at 89–92.

On two separate occasions, Stuckey and then Manigault and Anderson told Johnson about "misappropriation between her and her dad, whatever that was, and she came back with bruises." Johnson Dep. 82–83. Johnson perceived these statements as an effort to sway her views, a conclusion bolstered by statements made by the individual Defendants saying things like, "we've all got to stick together." Id. at 83–84.

Here, there is independent testimony from a third-party witness who was employed by Community Options in the Thistle House that corroborates the allegations and casts serious doubt on the veracity of the individual Defendants' denials. The individual Defendants have themselves admitted that they texted with one another about their work, including on the day the false allegations of abuse were made. The unproduced text messages offer an essential window into the contemporaneous thinking of these individuals and what was happening in the group home. They should be produced.

II. The failure to preserve or intentional destruction of communications warrants a spoliation sanction.

If Defendants' counsel is unable to retrieve the messages, the Court should sanction them with a finding that they spoliated evidence and instruct the jury accordingly.

"The duty to preserve material evidence arises not only during litigation but also extends to that period before the litigation when a party reasonably should know that the evidence may be relevant to anticipated litigation." Silvestri v. Gen. Motors Corp., 271 F.3d 583, 591 (4th Cir. 2001). "Spoliation" is "the destruction or material alteration of evidence or ... the failure to preserve property for another's use as evidence in pending or reasonably foreseeable litigation." Id. at 590. "[W]hen evidence is lost or destroyed by a party an inference may be drawn by the jury

that the evidence which was lost or destroyed by that party would have been adverse to that party.”
Kershaw County Bd. of Educ. v. U.S. Gypsum Co., 302 S.C. 390, 394, 396 S.E.2d 369, 372 (1990).

Here, Anderson and Stuckey concede they deleted messages *after* they were served with this lawsuit and Plaintiffs’ document requests. Unless those phones can be restored and the messages retrieved to the Court’s satisfaction that no potentially discoverable evidence has been lost, the individual Defendants should be sanctioned with a spoliation jury instruction. There is no excuse for their failure to preserve this evidence. Anderson’s claim that her phone “got messed up” (coincidentally) one month before her deposition and Stuckey’s claim that she replaced her phone and “always” cleans the data out strain credulity on the one hand while underscoring the intentional nature of the discovery violation on the other.

Manigault is a more complicated case, but not by much. The lone message she produced is the product of her personal review of the phone. Considering the allegations and evidence complied thus far and her incentive to lie, Manigault’s collection and review is not sufficient. Her counsel should be tasked with performing a professional collection and review.

CONCLUSION

For these reasons, the motion should be granted, and the Court should (1) overrule all Defendants objections to document Request No. 12, (2) order Defendants counsel to forensically collect her clients’ personal phones and produce responsive text messages, and (3) sanction the individual Defendants with a spoliation instruction if the messages cannot be retrieved. Plaintiffs reserve the right to supplement this motion with a memorandum prior to a hearing.

[signature page follows]

Respectfully submitted,

s/Christopher P. Kenney

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ATTORNEYS FOR PLAINTIFFS

JOY D. PHILLIPS AND JAMES C. PHILLIPS

August 28, 2025

Columbia, South Carolina.

Exhibit A
PHILLIPS_000728
Group Chat Message

12/16/2022 5:00:54 PM(UTC-5)Direction:OutgoingFrom, + (Me)

Just a reminder of Sierra's appointment next Wednesday. I just completed online check-in. I chose Oasis Pharmacy in Columbia as her pharmacy - please correct that if I'm wrong.

Please have whoever takes her call me when the Dr. Dane comes in the room. Thank you!

Attachments:



Screenshot 2022-12-16 at 4.59.00 PM.png
~/Library/SMS/Attachments/fc/12/EF3DD941-8890-4AF3-B745-A6C79DC55FA5/Screenshot 2022-12-16 at 4.59.00 PM.png

Status: Sent
Priority: Normal
Platform:
Label:

12/19/2022 12:19:22 PM(UTC-5)Direction:IncomingFrom, + (Caroline White Community Options)To => To: + Me (owner) (Me)
Really she's to special

Participants:

Participant	Delivered	Read	Played
+ Me		12/19/2022 12:19:36 PM(UTC-5)	

Status: Read
Priority: Normal
Platform:
Label:

12/19/2022 12:20:04 PM(UTC-5)Direction:OutgoingFrom, + (Me)
Huh??

Status: Sent
Priority: Normal
Platform:
Label:

12/19/2022 12:21:27 PM(UTC-5)Direction:IncomingFrom, + (Caroline White Community Options)To => To: + Me (owner) (Me)
I'm forwarding this I'm out of town

Participants:

Participant	Delivered	Read	Played
+ Me		12/19/2022 12:21:41 PM(UTC-5)	

Status: Read
Priority: Normal
Platform:
Label:

12/19/2022 12:22:17 PM(UTC-5)Direction:OutgoingFrom, + (Me)
I was just wondering why you sent me a text that said "really she's to special".

Status: Sent
Priority: Normal
Platform:
Label:

12/19/2022 12:24:35 PM(UTC-5)Direction:IncomingFrom, + (Angela Community Options)To => To: + Me (owner) (Me)
Been at work since 12 last night right now F all them

Participants:

Participant	Delivered	Read	Played
+ Me		12/19/2022 12:25:16 PM(UTC-5)	

Status: Read
Priority: Normal
Platform:
Label:

12/19/2022 12:24:53 PM(UTC-5)Direction:IncomingFrom, + (Caroline White Community Options)To => To: + Me (owner) (Me)
Sorry wrong person vacation mode

Participants:

Participant	Delivered	Read	Played
+ Me		12/19/2022 12:25:16 PM(UTC-5)	

Status: Read
Priority: Normal
Platform:
Label:

Exhibit B
Angela Stuckey
Deposition Transcript Excerpts

1 Q. Does Community Options pay the bill for
2 that phone?

3 A. No.

4 Q. You pay the bill?

5 A. Yes.

6 Q. All right. Give me the phone number,
7 your -- your personal phone number, please.

8 A. [REDACTED] - --

9 Q. Yes.

10 A. -- [REDACTED] - --

11 Q. Yes.

12 A. -- [REDACTED].

13 Q. And who is the carrier for that?

14 A. AT&T.

15 Q. What sort of device is it?

16 A. A iPhone 15.

17 Q. And do you still have that phone?

18 A. Not that particular one. But I've had
19 probably -- I bust them up; so I had probably
20 three or four of them. But not the particular
21 phone, but I had -- that's the same phone, same
22 carrier. So different phone, same carrier.

23 Q. And -- And let me just make sure I
24 understand. The phone she called you on that
25 evening -- you no longer have that device?

1 A. No.

2 Q. You've replaced it once or twice?

3 A. Yeah, two or three time probably.

4 Q. Two or three times?

5 A. Yeah.

6 Q. When you replaced the phone, did you
7 migrate the data from the old phone to the new
8 phone?

9 A. Yes.

10 Q. So like you still have your pictures?

11 A. Yeah.

12 Q. Your email?

13 A. Yeah.

14 Q. "Yes"?

15 Text messages?

16 A. Yeah.

17 Q. Have you deleted anything from -- did
18 you delete anything from the old phone?

19 A. I always clean my phone out. I clean my
20 phone out basically every day.

21 Q. Tell -- tell me -- tell me about that.
22 What do you mean you "clean it out"?

23 A. I delete what doesn't need to be
24 because -- for a job reason. Because I get a lot
25 of emails from the doctor appointments, a lot of

1 reminders; so a lot of things like -- that I
2 don't need to have, I just clean it out so I
3 don't get confused with what I'm doing.

4 Because I have so much stuff going on
5 that I have a lot -- you know, the ladies have
6 their appointments; so they email me, and I have
7 to check them in. So I have a lot of stuff. So
8 I don't keep junk.

9 Q. And so I'm clear on this, you -- what
10 you're saying is when you -- you get emails about
11 doctor's appointments, you're not talking about
12 your personal doctor; you're talking about your
13 consumers' doctor appointments -- those come to
14 your personal cell phone?

15 A. Yeah.

16 Q. And what is the -- what are the email
17 addresses that are on that cell phone?

18 A. You talking about my email address?

19 Q. Well, give me all of the email addresses
20 that you can access using that phone, please.

21 A. [REDACTED] --

22 Q. Yep.

23 A. -- [REDACTED]@gmail.com.

24 Q. Okay. Other than the Gmail, do you have
25 any other email --

1 me, I told them what was -- what was said, why.

2 Q. Are you pretty close to Ms. Anderson?

3 A. We're coworkers, and we're okay.

4 We're not -- we're -- we have a relationship.

5 Q. You're friendly?

6 A. Sort of, you know, maybe. I want to say

7 work relationship. I try to have a good work

8 rapport with all my workers that way --

9 Ms. Anderson, Ms. Sampson, all us, we get along
10 very well.

11 Q. How about Ms. Manigault? You got a -- a
12 good work relationship with her?

13 A. I really don't know her. Like, I really
14 don't know her. I have a relationship like I
15 have with the other ladies. You know, I don't
16 really, you know, know her like that.

17 Q. I understand. Do you communicate
18 relatively often with the other ladies who work
19 under you?

20 A. Yeah, because at some point they have to
21 call me all the time. Because something goes on
22 4:00, 5:00 o'clock in the day, I'm home. They'll
23 call me. They have to let me know what's going
24 on. I have to let my supervisor know. So, yeah,
25 we talk often.

1 Q. Right. And -- and is it fair to say
2 that y'all will text from time to time about
3 what's going on?

4 A. Sometime.

5 Q. And that's to share the same type of
6 information that we've -- you know, that, "This
7 is happening in the house," or, "Can you handle
8 this," just routine work stuff?

9 A. I always tell them basically call me
10 because sometime I may not see the text --

11 Q. I -- I understand.

12 A. -- until the next day. And --

13 Q. Sure.

14 A. -- then it's too late or whatever going
15 on. So I -- basically I tell them, most of the
16 time, "Y'all, call me. But if y'all's end tied
17 up, it's easier just to then text me." I prefer
18 to call.

19 Q. I understand that. And you guys meet
20 from time to time; correct?

21 A. On the job --

22 Q. Yeah.

23 A. -- for house meetings and stuff?

24 Q. House meetings --

25 A. Yeah.

1 morning?

2 A. Yes.

3 Q. Other than Ms. Heslop -- let me put it
4 this way: Did somebody other than your lawyer
5 show this photo to you?

6 A. Yes.

7 Q. Okay. What -- who was that?

8 A. Ms. Anderson.

9 Q. When?

10 A. Basically about the same day it
11 happened.

12 Q. And where were you when that happened?

13 A. Home.

14 Q. So explain to me: If you were at home,
15 how did she show it to you?

16 A. She sent me the picture to my phone.

17 Q. She texted it to you?

18 A. Yeah.

19 Q. Did she text you a message?

20 A. I think she just said -- well, after she
21 already had called me, I basically knew what it
22 was. So she just said -- I don't remember what
23 she said. I just -- I know she sent me the
24 pictures.

25 Q. Whatever she sent you, it's on that

1 enforcement?

2 A. I can't tell her that.

3 Q. Okay. Did you tell her that?

4 A. No.

5 Q. Understood. And then on January 3rd, if
6 I understand your testimony, you didn't do any
7 follow-up or make any further inquiry based on
8 what you learned about January 2nd?

9 A. No.

10 Q. Is that "no"?

11 A. No.

12 Q. And, of course, on January 2nd, you had
13 not only received the phone call; you also had
14 received the text message with the photos. So
15 you had photos of what Ms. Anderson was saying
16 was Sierra's behind.

17 A. Uh-huh.

18 Q. "Yes"?

19 A. Yes.

20 Q. And you saw the red marks?

21 A. Yes.

22 Q. And on January 3rd, you didn't do
23 anything with that information?

24 A. Other than after me reporting -- I know
25 January 3rd, I didn't do anything. The 2nd, I

1 Incoming from Ms. White to Joy: "I'm forwarding
2 this. I'm out of town."

3 Do you see that?

4 A. Yes.

5 Q. All right. Next message. 12/19, couple
6 minutes -- one minute later. This is from Joy.

7 "I was just wondering why you sent me a text that
8 said" -- quote -- "'Really, she's to special.'"

9 Do you see that?

10 A. Yes.

11 Q. Do you remember getting this?

12 A. I don't remember getting that. I
13 remember Ms. Carolyn, usually -- sometime she
14 have us on a group text.

15 Q. Yeah.

16 A. That's what this says.

17 Q. I understand.

18 A. Okay.

19 Q. Next message. This is 12/19/2022 at
20 12:24, incoming. That's your phone number;
21 correct?

22 A. Yes.

23 Q. And then it says Angela, Community
24 Options, and then this is to Joy. It says, "Been
25 at work since 12 last night. Right now --"

1 A. No.

2 Q. "-- F all them." Is that what it says?

3 A. I would -- yes, that's what it says.

4 And -- but I wasn't talking to her. I was
5 talking to Carol.

6 Q. Right. And you're talking about the
7 consumers. "F all them" --

8 MS. HESLOP: Objection.

9 (By Mr. Kenney)

10 Q. -- is that what you wrote?

11 A. Yeah, I did write it, yeah.

12 Q. Right. And what is the "F" in that
13 sentence?

14 A. "Fuck."

15 Q. And so you were fed up with them?

16 A. I was home, and I was off, and I was
17 tired, and I was on my own time.

18 Q. And you were fed up?

19 A. Basically.

20 Q. And you were fed up, and you were
21 communicating with your supervisor, Ms. White,
22 that you've had enough with -- of them, and F
23 them all.

24 A. Yeah.

25 Q. Right?

1 A. Yeah.

2 Q. Okay. And so you felt safe enough,
3 confident enough, to communicate that, not to
4 your spouse or your friend. You sent that to
5 your supervisor -- or you meant to; right?

6 A. Yeah.

7 Q. But instead, you sent it to Joy.

8 A. Well, I -- I didn't send that to her on
9 purpose.

10 Q. I understand that.

11 A. I thought I was talking to my
12 supervisor. Period.

13 Q. Yeah. You -- you thought you were
14 talking to your supervisor.

15 A. Yeah, I thought I did. I really did.

16 Q. But this -- this tells us how you really
17 feel about them, doesn't it?

18 MR. HOWE: Object.

19 A. Feel about who?

20 (By Mr. Kenney)

21 Q. About your consumers.

22 A. No, that doesn't tell you how I feel
23 about my consumers. That tells you how I felt at
24 the moment.

25 Q. Uh-huh.

1 A. So, no, that don't tell you exactly how
2 I feel. And if anybody can tell you, I don't
3 conduct myself like that at work, no.

4 Q. Well, you're texting this to your
5 supervisor. So --

6 A. Yes.

7 Q. -- that's a communication with, not just
8 a work colleague, but your boss?

9 A. Yes.

10 Q. And that -- that was okay to do, in your
11 mind; right?

12 A. Right then, yeah.

13 Q. Right. This wasn't the only time you've
14 expressed frustration, irritation, that you were
15 fed up with your consumers, was it?

16 MS. HESLOP: Objection.

17 THE STENOGRAPHER: Repeat.

18 A. I have -- with my husband, I may say --
19 he'll say, "Well, Hun, did you have a long day?"

20 "Yeah, I had one of those days."

21 I mean, I'm entitled to say things like
22 that.

23 (By Mr. Kenney)

24 Q. Uh-huh.

25 A. Yeah. We all have rough days. I

1 mean...

2 Q. F -- "F all them"?

3 A. I mean, that was just a figure of
4 speech.

5 Q. Right. Because what you really meant
6 was "fuck all them"?

7 A. Yeah, but it was a figure of speech.

8 Q. Okay. And the next text is from
9 Ms. White. And it says, "Sorry. Wrong person.
10 Vacation mode."

11 Do you see that?

12 A. Yes.

13 Q. All right. Did Ms. White ever speak to
14 you about this afterward?

15 A. Yeah.

16 Q. When was that?

17 A. I think about -- probably a while after
18 she called me. And she said, "Girl," said, "Do
19 you realize that you was on a thing?"

20 I said, "No, I didn't." I thought I was
21 talking directly only to her. Had no idea that I
22 was talking to anybody else.

23 Q. Did you apologize at any point?

24 A. To who?

25 Q. To anybody.

1 A. No. Because it was never brought to my
2 attention otherwise that -- until really now
3 that -- I wasn't aware that -- she did tell me I
4 was on the string thing. But, no, I didn't
5 apologize to anybody because I didn't communicate
6 with Joy.

7 Q. Well, I mean, I -- I'm just telling you,
8 I'm representing to you, that Joy got this text
9 message. So you did send it to Joy. I know you
10 didn't mean to, but --

11 A. No. I was talking -- as far as I
12 consider, I was talking to Ms. White.

13 Q. I understand that.

14 A. Okay.

15 Q. And I understand you made a mistake in
16 who you sent it to. But I think you would
17 probably agree with me that this is a little
18 window into your mind about how you felt about
19 your consumers on this day; correct?

20 MS. HESLOP: Objection.

21 A. No. I still say no.

22 (By Mr. Kenney)

23 Q. So you don't --

24 A. This doesn't paint the picture about me
25 for the past 28 years taking care of my

1 consumers. Because I do 110 in my job, and
2 anybody can tell you that -- office, anybody.
3 So, no, this doesn't say about how I feel about
4 anything.

5 This is just saying I was tired, I was
6 overwhelmed that particular day, and that's how I
7 felt that particular day. That doesn't bring
8 anything into mode about how I feel about them or
9 anything.

10 Q. You were tired on other days, too;
11 right?

12 A. I have been.

13 Q. You were overwhelmed on other days, too?

14 A. I have been.

15 Q. You had consumers who were very
16 difficult to deal with, had behaviors on many,
17 many days that we've already discussed?

18 A. Yes.

19 Q. And you've had frustrations?

20 A. Yes.

21 Q. And you had a behavioral support plan
22 that didn't impose consequences that were severe
23 enough to curb their behavior --

24 MS. HESLOP: Objection.

25 (By Mr. Kenney)

1 Q. -- correct?

2 MS. HESLOP: Objection.

3 A. Yes.

4 (By Mr. Kenney)

5 Q. And now you want this jury to believe
6 that what you were -- thought you were saying in
7 private is not how you really feel? That's what
8 you want them to believe; correct?

9 MS. HESLOP: Objection.

10 A. I can't make anybody believe what they
11 want to believe. I know -- I know in my heart
12 what I meant, okay, and I know what I mean, and I
13 know what type of service I provide to these
14 ladies on a daily basis.

15 So I can't -- I can't put in your mind
16 what you think. I mean, anybody is entitled to
17 their own opinion. But I know I was frustrated,
18 and I was just voicing my opinion then; but
19 that's not how I feel about my job.

20 (By Mr. Kenney)

21 Q. You want them to believe you, not their
22 lying eyes, in terms of what you wrote by
23 accident to Joy?

24 MS. HESLOP: Objection.

25 A. No. I want them to believe what they

Exhibit C
Shirley Anderson
Deposition Transcript Excerpts

1 that your personal phone?

2 A. Yes.

3 Q. Very good.

4 What is the telephone number on that
5 phone, please?

6 A. [REDACTED].

7 Q. Who is your carrier for that telephone?

8 A. T-Mobile.

9 Q. Understood.

10 And you get e-mails on that phone,
11 correct?

12 A. Yes.

13 Q. I see -- I assume you get your Yahoo
14 e-mail on that phone.

15 A. Yes.

16 Q. Do you get any other e-mail accounts on
17 that phone?

18 A. Gmail.

19 Q. And tell me what your Gmail address is.

20 A. [REDACTED]@gmail.com.

21 Q. All right. Do you get any Community
22 Options e-mails on that phone?

23 A. No.

24 Q. Do you get text messages on that phone?

25 A. Yes.

1 Q. Do you text for work using that phone?

2 A. No.

3 Q. You've never texted for work using that
4 phone?

5 A. No.

6 Q. Do you make phone calls for work using
7 that phone?

8 A. Phone call for work?

9 Q. Yeah. If you have to call a supervisor,
10 a co-worker, do you use that phone?

11 A. Yes.

12 Q. All right. And on this occasion you
13 used this -- your phone, your personal phone, to
14 take photographs, correct?

15 A. Yes.

16 Q. All right. Page 2 of Exhibit 1, what is
17 that a photograph of?

18 A. Of Sierra butt.

19 Q. All right. And what, in your opinion,
20 does that depict?

21 A. Sierra butt.

22 Q. Why did you take this picture?

23 A. I was asked to take that picture.

24 Q. Very good.

25 Who asked you to take the picture?

1 A. Carolyn White.

2 Q. All right. And when did Ms. White ask
3 you to take the picture?

4 A. The same night that I saw it and report
5 it.

6 Q. Okay. And when you say saw it, tell me
7 what you saw.

8 A. What I'm seeing in the picture.

9 Q. Okay. And describe it for me.

10 A. The red marks.

11 Q. Okay. And what time on January 2nd,
12 2023 did you see these red marks?

13 A. 4:42 p.m.

14 Q. All right. And what was the
15 circumstances under which you came to see these
16 red marks?

17 A. I was giving her a shower.

18 Q. And by her, you mean Sierra?

19 A. Sierra, yes.

20 Q. Okay. All right. And this photo was
21 taken in the bathroom?

22 A. Yes.

23 Q. All right. Turn to page 3 of the
24 exhibit.

25 What is this?

1 A. This is her butt.

2 Q. Who took this photo?

3 A. I took the photo again.

4 Q. All right. And what does it depict, in
5 your opinion?

6 A. This is her in her pajamas.

7 Q. And where was this photo taken?

8 A. This was in her room.

9 Q. At approximately what time would this
10 photo have been taken?

11 A. This was probably one minute later.

12 Q. All right. Was this before or after her
13 shower?

14 A. This is after. I just had put her
15 pajamas on her.

16 Q. If we go back to page 2, was this photo
17 taken before or after the shower?

18 A. This was right after she had just got
19 out of the shower.

20 Q. Okay. And did you notice the red -- the
21 redness on her bottom before she got in the
22 shower?

23 A. No. She had already got in the shower,
24 and she had turned -- had her butt turned to
25 the -- the shower, and only her front was facing

1 me.

2 Q. Okay. Very good.

3 Did you assist her with her shower?

4 A. Yes.

5 Q. Any incidents during the shower?

6 A. You mean what incident during the
7 shower, how I saw that?

8 Q. I'm just saying like anything out of the
9 ordinary happen?

10 A. For me to see that? You mean -- you
11 have explain so I can understand what you mean.

12 Q. Yeah. I mean, was the shower -- did it
13 happen without an incident or behavior?

14 A. You still have to explain --

15 Q. Did you have any problems giving her a
16 shower?

17 A. Problems how?

18 Q. That's the question. Did you have any
19 problems?

20 A. Well, I need to know why would I have a
21 problem giving her a shower. Meaning so -- for
22 this to happen?

23 Q. I'm just asking if it was an
24 unremarkable shower.

25 A. I'm still confused.

1 Q. Okay. All right. Let's go to page --

2 A. No, no. I just need clarity on that so
3 I can answer your question.

4 Q. I think I've got the answer I need.
5 If you'd go to page 4 of the exhibit,
6 please.

7 A. No, I would like to answer that
8 question.

9 Q. Madam Court Reporter, will you read it
10 back?

11 THE COURT REPORTER: You asked her
12 several times. I'm not sure at which point you
13 want me to read back. But you did say:

14 That's the question. Did you have any
15 problems.

16 Well, I need to know why would I have a
17 problem. For this to happen.

18 I'm just asking if it was an
19 unremarkable shower.

20 I'm still confused.

21 I can go back further if you want me to.

22 A. No. Okay. Well, I'll answer it just in
23 this way then.

24 When she was being showered and when she
25 didn't want to turn around, that was kind of

1 strange. And when she turned around, and that's
2 when I noticed her butt was red.

3 Q. Then what happened?

4 A. And then that's when I said, Wow. Why
5 is your butt so red? And then that's when she
6 went in details. I didn't ask her.

7 Q. All right. What did Sierra say?

8 A. That's when she said, My dad hit me
9 three times on my butt with a belt, and my mom
10 hit me three time. And I said, Stop.

11 And that's when I called Willa. I said,
12 Willa, you need to come inside here. You need to
13 hear this.

14 And that's when Willa came in, and she
15 said -- and Sierra said, Yeah, Willa. You need
16 to come and hear this. And Willa came in.

17 And then that's when she repeated
18 everything. And she said, My mom hit me three
19 times with the belt, and my dad hit me three
20 times with the belt because I did not have my
21 iPad. And then she said, Yeah. And she said,
22 Yeah, my dad shaved me down here -- because she
23 was bald in the front. She offered information.

24 So I made sure I had a witness. I
25 didn't ask her anything. I only asked her why

1 her butt was red, and that's when she said that.
2 And I had Willa there. And then she said, My dad
3 touched my breast, and he would give me bath and
4 all that. And I said, Whoa. Okay.

5 And when I finished shower her up, and
6 then that's when I called Angela, the lead staff,
7 and she said --

8 Q. Angela Stuckey?

9 A. Angela Stuckey.

10 Q. Go ahead.

11 A. And Angela said, Shirley, call Carolyn.

12 Q. That's Ms. White?

13 A. Exactly.

14 Q. All right. Did you call Ms. White?

15 A. I called Ms. White.

16 Q. Okay. What'd she say?

17 A. She said, You need to call SLED. And I
18 called SLED.

19 Q. Okay.

20 A. And SLED said I needed to call the
21 police, and I followed the chain of command.

22 Q. Okay. What did you tell SLED?

23 A. And I told them exactly what she said,
24 and they told me --

25 Q. Let me stop you right there. In terms

1 what Sierra said, is there anything that you
2 believe Sierra told you that you have not told me
3 just now? Is there anything more than what you
4 just told me now?

5 A. Well, I asked her where was her mom. I
6 said, Where -- I said, Where was your mom when
7 all this was going? And she said, My mom was in
8 the room packing my clothes.

9 Q. Okay. Anything else that you remember?

10 A. And that's what I remember.

11 Q. Okay. Back to SLED. What did you tell
12 SLED?

13 A. I told SLED exactly that, and SLED said
14 I needed to contact the police department in
15 North Charleston or whatever the jurisdiction
16 there. And I got -- I didn't contact them until
17 the next morning because this was late. I was,
18 you know --

19 And I contact Kendra. I did contact
20 Kendra -- Kendra -- I forgot what Kendra's last
21 name. I contact Kendra, which was the
22 residential person.

23 Q. Okay. In the context of the narrative
24 you just laid out, when were these photos taken?

25 A. That same night.

1 Q. Yeah. I'm -- okay. Was it before you
2 called Ms. Stuckey?

3 A. Yes.

4 Q. All right. So you took the photos
5 before you called Ms. Stuckey?

6 A. Yes.

7 Q. Okay. And let's go to the last page of
8 the --

9 A. I called -- no. Excuse me. Let me
10 start -- the photos were taken after I was told
11 to -- when I called Ms. White and when I told her
12 about them -- because I didn't even take no --
13 was thinking about taking no photos. So when I
14 told Ms. White, she was the one to tell me to
15 take the photo.

16 Q. I understand.

17 Go to the last page of the exhibit,
18 please.

19 And this is just to clean up. Who took
20 this photo?

21 A. I took all the photos.

22 Q. This is your photo? Okay.

23 A. Yes.

24 Q. Very good.

25 Did you take other photos other than

1 these?

2 A. No.

3 Q. These are all the photos you took?

4 A. Yes.

5 Q. Using that phone right there?

6 A. Using that phone.

7 Q. Okay. After you took these photos, I
8 understand -- if we go to the first page of the
9 exhibit, I understand that in November of 2023
10 you e-mailed them to yourself. But before
11 November of 2023, did you send them to anybody
12 else?

13 A. Only Angela because she was the lead.
14 And Ms. Carol.

15 Q. All right.

16 A. That's it.

17 Q. How did you send these photos? How did
18 you send them to Angela and Ms. Carol?

19 A. A message.

20 Q. What kind of message?

21 A. To their phone.

22 Q. I understand that.

23 Was it a text message?

24 A. Yes, to their -- to their numbers
25 that -- that's how I sent it. I would send it to

1 their phone. Message. I sent.

2 Q. Like a text?

3 A. Yeah.

4 Q. Okay. It wasn't an e-mail. It was a
5 text?

6 A. I'm not good with text or message.
7 That's how I say it. Okay.

8 Q. Let me ask you. If you were to pull
9 that phone up right now, could you show me the
10 application you used to send it?

11 A. Yeah.

12 Q. Okay. Would you do that just so we know
13 how you did that?

14 A. Yeah. To their --

15 Q. Yeah.

16 A. Uh-huh. To their telephone number.
17 That's how I sent it.

18 Q. Okay. So that's what I think of as a
19 text message.

20 A. Okay. Well, then a text message.

21 Q. Understood.

22 A. All right.

23 Q. Fair enough.

24 All right. Let's look at -- let's look
25 at this. Well, actually, before I mark it -- I

1 A. Yes.

2 Q. And then you note with respect to
3 description of injury what -- read what you wrote
4 there.

5 A. Oh, what I wrote?

6 Q. Yes, ma'am.

7 A. Yeah. Nothing new to report.

8 Q. All right. So on January 1st, as you
9 are leaving, you complete this form and indicate
10 that there's no injuries to Sierra.

11 MS. HESLOP: Objection.

12 Q. That's what you indicated, correct?

13 MS. HESLOP: Objection.

14 Q. You can go ahead and answer.

15 A. I thought I had put nothing new to
16 report because -- you know, that was my fault
17 because I -- as to the -- no, I actually didn't
18 give her a shower that day. So I should have
19 just said, you know, I didn't give her a shower
20 that day.

21 Q. Well, this document doesn't say anything
22 about showers.

23 A. I know. And I should have said nothing
24 new to report.

25 Q. Well, you did say nothing new to report.

1 A. And --

2 Q. So --

3 A. -- I didn't give her a shower that day
4 because Loletta had said she gave her a shower
5 that day. So that's why. I just should've
6 just -- I just not have -- just said, you know,
7 Loletta said she gave her a shower. And she just
8 said nothing -- shower not given.

9 Q. Okay. So this document is false.

10 MS. HESLOP: Objection.

11 A. So --

12 Q. This document is false.

13 MS. HESLOP: Objection.

14 Q. Correct?

15 A. There wasn't nothing new that day.

16 Q. Okay. Well, did you do a body audit of
17 Sierra on January 1st, 2023?

18 A. She was already in the bed.

19 Q. Did you do a body audit of Sierra on
20 January 1st, 2023?

21 A. She was already showered, she said.

22 Q. Ms. Anderson, did you hear my question
23 just now?

24 A. She told me not to, that she had already
25 showered her, so no.

1 Q. No what?

2 A. No, I didn't do a body audit because I
3 didn't shower her that day.

4 Q. All right.

5 A. Because she was already showered.

6 Q. Okay. Very good. Did not do a body
7 audit.

8 So back to my question a minute ago.
9 Exhibit Number 4, page 1. This document is
10 false, correct?

11 MS. HESLOP: Objection.

12 A. There was nothing new to report.

13 Q. Ms. Anderson, I'm not trying to be
14 obstreperous. Okay? But my question is a simple
15 one. This exhibit, Exhibit 4, page 1, this
16 document you created, it is not true, correct?

17 MS. HESLOP: Objection.

18 Q. This says you did a body audit. You
19 didn't do a body audit.

20 A. She was already showered.

21 Q. Ma'am, could you please answer my
22 question?

23 A. I did. She was already showered.

24 Q. Okay. This document is not true. You
25 agree?

1 MS. HESLOP: Objection. Asked and
2 answered.

3 MR. KENNEY: It has not been
4 answered.

5 A. She was showered.

6 Q. All right. Ms. Anderson, here's what
7 we're going to do. We're going to hold this
8 deposition open, and I'm going to ask a judge to
9 order you to answer my question. Okay? So I'm
10 going to move on for now, but I'm going reserve
11 my right to bring you back here to answer what I
12 believe is a very simple question.

13 A. Okay.

14 MS. HESLOP: And I'm going to
15 object to that. It is asked and answered.

16 Q. Turn to the next page of Exhibit 4.

17 A. Okay.

18 Q. What is this document?

19 A. The next day.

20 Q. It's another body audit, correct?

21 A. Yes.

22 Q. January 2nd, 2023, correct?

23 A. Yes.

24 Q. All right. Who created this document?

25 A. Uh-huh.

1 came on, tell her what's going on with the
2 consumer, and that's it.

3 Q. All right. How about Shirley Ander --
4 not Shirley Ander -- excuse me. How about Angela
5 Stuckey? What's your relationship with her?

6 A. The same thing. That's it. Communicate
7 what's going on, and that's it.

8 Q. You guys aren't social friends or
9 anything like that? You know each other outside
10 of work?

11 A. No.

12 Q. Okay. You ever communicate with
13 Ms. Stuckey or Ms. Manigault via the telephone?

14 A. I've had to let them know about
15 something, if I'm not coming in or what have you.
16 That's about it. Yes.

17 Q. Okay. And do you ever text them on the
18 telephone?

19 A. To let them know something, yes.

20 Q. And you still have -- you still have
21 those messages?

22 A. Sure. If I have to let them know
23 something, yes.

24 Q. Yes, ma'am.

25 Do you still have those messages on your

1 phone?

2 A. No. No. Do I got saved messages or
3 something like that?

4 Q. Well, let me ask a better question.

5 Have you deleted any text messages since
6 this lawsuit started?

7 A. Well, my phone got messed up, and it had
8 to been reset, yes, so I don't have those
9 messages anymore.

10 Q. Well, tell me about that. When did that
11 happen?

12 A. That happened about a month ago. So --
13 so my phone got messed up. Yes.

14 Q. Okay. Have you -- and, again, I don't
15 want to know anything that you may have discussed
16 with Ms. Heslop or anybody in her office. Do you
17 understand?

18 A. Yes.

19 Q. I'm not entitled to know that.

20 Have you provided access to your phone
21 to Ms. Heslop or somebody in her office or
22 somebody that she retained to help get
23 information off your phone?

24 A. When?

25 Q. Ever.

1 A. I think they -- someone had asked for my
2 e-mail, so that was it.

3 Q. I understand. But just focus on my
4 question here.

5 Have you ever given them access to the
6 phone, just given it to them --

7 A. No.

8 Q. -- to get information?

9 A. No. No.

10 Q. Okay. That answers my question.

11 A. Okay.

12 Q. Let me ask you about -- let me ask you
13 about this document.

14 (Exhibit 5 was marked.)

15 BY MR. KENNEY:

16 Q. Ms. Anderson, this -- we marked this as
17 Plaintiff's Exhibit Number 5. Do you recognize
18 this document?

19 A. Yes. I see it.

20 Q. Well, let me ask a better question.

21 Is that your signature on it?

22 A. Yes, it is.

23 Q. Okay. And so you would've signed this
24 in September of 2022?

25 A. Okay.

1 A. Yes.

2 Q. -- this record that you prepared, this
3 body audit, on January 1st, 2023 --

4 A. Yes.

5 Q. -- this record that you prepared for the
6 purpose of being able to refresh your
7 recollection --

8 A. Yes.

9 Q. -- this document is untrue, correct?

10 MS. HESLOP: Objection.

11 A. Yes, it's untrue.

12 MR. KENNEY: Okay. Thank you for
13 your time.

14 MS. HESLOP: I don't have any
15 further questions.

16 THE VIDEOGRAPHER: This ends the
17 deposition of Shirley Anderson. The time is
18 12:36 p.m., and we are off the record.

19 (The deposition concluded at
20 12:36 p.m.)

21

22

23

24

25

Exhibit D
Willa Manigault
Deposition Transcript Excerpts

1 it for work. I could call the office. Sometime
2 I call the -- the manager or even the
3 administrator there, Kendra.

4 Q. I understand that. And do you ever text
5 your coworkers from that phone?

6 A. Do I ever text my coworkers? Yes, back
7 and forth for our time -- for -- sometimes she
8 asks me if I'm coming. Sometimes they call --
9 they text me because I'm late.

10 Q. Okay.

11 A. Things like that.

12 Q. Understood. Do you -- what is -- what
13 is that phone? What's the device? What is it
14 called?

15 A. A cell phone.

16 Q. No, I understand that. But, I mean,
17 what kind of cell phone?

18 A. I guess -- is it a Galaxy?

19 Q. I don't know --

20 A. I know it's a Samsung. It's in the car,
21 too, I can bring it out.

22 Q. That's okay. What is the phone that's
23 in the car? Your personal cell phone? What kind
24 is it?

25 A. It's a Samsung smartphone.

1 Q. What's your telephone number?

2 A. [REDACTED]

3 Q. And who's your carrier?

4 A. T-Mobile.

5 Q. Okay. Since this lawsuit was filed,
6 have you or maybe somebody on your behalf looked
7 through your phone for messages that would be
8 relevant to this case?

9 A. Nothing relevant to this case, no.

10 Q. Well, but the question is: Have you or
11 somebody else for you looked, reviewed the phone
12 to look for things?

13 A. No, no. Nobody has reviewed the phone.

14 Q. Okay. And have you reviewed the phone?

15 A. Yes.

16 Q. And did you -- have you looked for
17 things relevant to this case?

18 A. It probably wasn't relevant to this
19 case, but it was relevant to -- for work.

20 Q. Okay. Did -- whatever you found did you
21 give it to Ms. Heslop or somebody in her office?

22 A. Yes.

23 Q. All right.

24 MR. KENNEY: Mark that for me.

25 (Exhibit Number 1 was marked.)

1 (By Mr. Kenney)

2 Q. Ms. Manigault, we marked this as
3 Exhibit 1. Do you recognize this document?

4 A. Yes.

5 Q. What is it?

6 A. It's a text to Ms. Carol White.

7 Q. All right. And how do you know that? I
8 mean, who -- it's a two-page document. And if
9 you look at the second page, I vaguely see the
10 name Carol on this page.

11 Do you see that?

12 A. First page?

13 Q. Second page.

14 MS. HESLOP: It's this one.

15 A. Okay. Yes.

16 (By Mr. Kenney)

17 Q. Is there -- I assume this is not the
18 only time you've texted Ms. White.

19 A. No, I don't think that's the only time I
20 texted Ms. White.

21 Q. Okay. And I'm sure you've texted
22 Ms. Stuckey?

23 A. I don't think I've ever texted
24 Ms. Stuckey. I probably called her. That's --
25 that's iffy, but...

1 Q. Uh-huh.

2 A. I didn't have a lot of communication
3 with Ms. Stuckey by phone.

4 Q. Okay. Go -- going back to Exhibit 1,
5 page 2. You ask a question here about a
6 medication for Sierra?

7 A. Yeah.

8 Q. "Should I indicate this in the MAR?"

9 A. Yes.

10 Q. Did Ms. White respond?

11 A. I don't think she ever responded to me.

12 Q. Well, I mean, what I'm getting at is
13 this is the only message that we have from you, I
14 believe, from your phone. Are there others
15 related to Sierra Phillips?

16 A. No.

17 Q. Okay.

18 A. There's no other messages related to
19 Sierra.

20 Q. Is that based on your personal review of
21 the phone?

22 A. I know there's no other -- there's no
23 other for Sierra. That was a random question
24 because I couldn't find her medication.

25 Q. Right.

1 A. She was probably out of it.

2 Q. Is that based on your personal review of
3 the phone?

4 A. Yes. My personal knowledge of the
5 phone -- of my -- okay. Yes.

6 Q. Ms. Manigault, my question is: Did
7 you -- is this based on your personal review of
8 the phone?

9 A. Yes.

10 Q. Okay. So it's -- you're the one who
11 looked and the only one who looked and you're
12 telling us this is all you found?

13 A. Yes, for Sierra, yes, yes. This is all
14 I found.

15 Q. Uh-huh. All right. Let's talk about
16 that phone for a second. Is that the same phone
17 you've had since 2022?

18 A. Yes, I do believe so, yes.

19 Q. Have you --

20 A. I don't change phone very often. So,
21 yes.

22 Q. Have you deleted anything off the phone?

23 A. No, I have not.

24 Q. Okay. All right. So remind me again
25 what year you went to go work for Community

Exhibit E
Loletta Johnson
Deposition Transcript Excerpts

1 me put it to you this way.

2 Some of these folks have mobility problems?

3 A Correct.

4 Q All right. And -- and they're also being
5 cared for?

6 A Correct. By other staffing.

7 Q Okay. And so when you do the body check,
8 what, if anything -- I mean, it's a visual examination,
9 correct?

10 A Correct.

11 Q All right. And do you do anything to
12 memorialize that?

13 A Well, if you -- if they're taking a shower
14 and you noticed that there's a bruise --

15 Q Yeah.

16 A -- you're supposed to mark it. And there's a
17 body figure and you mark off on the body where that
18 problem was.

19 Q And why do you do that?

20 A Because you want to not only leave paper
21 trail of what you're seeing, you've also want to be
22 able -- for somebody going back through, to see if it's
23 a consistent in that particular area or, you know, if
24 it's something out of the blue. You're -- you're
25 letting people like -- in the main office, they're able

1 to bump to this and see what -- what's going on by
2 paperwork anyway.

3 Q Okay. So documents and it also informs
4 somebody if there's something --

5 A Anyway.

6 Q -- wrong?

7 A Exactly.

8 Q All right. All right. Ms. Johnson, this is
9 Plaintiff's Exhibit No. 3.

10 And I only want -- well, I want to -- we'll
11 flip through each one of these, but if you want to take
12 a minute and -- and look at it, let me know when you're
13 ready.

14 A Okay.

15 (Whereupon, Plaintiff's Exhibit No. 3
16 was marked for identification.)

17 BY MR. KENNEY:

18 Q Okay. What are these documents?

19 A These are their body audits.

20 Q So it's what you just described?

21 A Correct.

22 Q All right. Let's start with the page -- with
23 Exhibit 3, page 68.

24 Whose signature is that?

25 A Mine.

1 BY MR. KENNEY:

2 Q Go to page 73.

3 Is that your signature?

4 A No.

5 Q Okay. Page 74, is that your signature?

6 A No.

7 Q 75, same question?

8 A No.

9 Q 76, same question?

10 A No.

11 Q 77, is that your signature?

12 A No.

13 Q All right. All right. Page 78, Plaintiff's

14 Exhibit 3, whose signature is that?

15 A That's my signature.

16 Q Okay. What is the date on this body audit?

17 A December 31st, 2022.

18 Q And what shift were you working that day?

19 A Second.

20 Q So that was a little out of the -- un- -- it
21 was unusual?

22 A Correct.

23 Q Not your normal.

24 Okay. And what did you indicate under

25 description of injury?

1 A Nothing new to report.

2 Q All right. And the outgoing staff on that
3 day was who?

4 A Looks like Ms. -- Ms. Willa.

5 Q All right. And the consumer here is Sierra?

6 A Correct.

7 Q So if you had observed something on that day,
8 what, if anything, would you have done?

9 A I would have marked it on here, let
10 Ms. Angela know, and then reach out to the office.

11 Q All right. Is this document indicating that
12 there was nothing to report, is it true and accurate?

13 A Correct.

14 MS. HESLOP: Objection.

15 BY MR. KENNEY:

16 Q Did you ever create a body audit that wasn't
17 true or wasn't accurate?

18 A No.

19 Q All right. Do you agree it's important to
20 make sure that these documents were true and accurate?

21 A Right.

22 Q And -- and just tell these folks why is that
23 important?

24 A Well, for one, it gives you a history of
25 what's taking place with this particular consumer, two,

1 A Yes.

2 Q What was going on that day?

3 A More than likely, I did a double, so that
4 means I was with her all day.

5 Q So second shift and third shift?

6 A Correct.

7 Q All right. How often would that happen?

8 A There had been times.

9 Q Okay. And let me ask you about a few more of
10 these and we'll -- we'll kind of move on.

11 Page 80, Plaintiff's Exhibit 3, whose
12 signature?

13 A That's mine.

14 Q What day?

15 A January 1st of 2023?

16 Q All right. What shift are you working?

17 A First shift.

18 Q And who was the consumer?

19 A Sierra.

20 Q What did you report?

21 A Nothing new to report.

22 Q All right. Now, it seems to me, that if you
23 look back at the last document, page 79, you were on
24 second and third shift?

25 A Correct.

1 Q And then when we flip to page 80, you were
2 also on first shift?

3 MS. HESLOP: Objection.

4 A Correct.

5 BY MR. KENNEY:

6 Q Okay. Is -- is that -- I mean, so you would
7 have had what, 24 hours there?

8 A Correct.

9 MS. HESLOP: Objection.

10 BY MR. KENNEY:

11 Q How often did that happen?

12 A Thistle House was a little short staffed,
13 so...

14 Q Tell me about that.

15 A Sometimes, people, unfortunately, would call
16 in or somebody may not show up so you can't leave them,
17 so you just stay with them until you're relieved.

18 Q In your time there in this sort '21, '22 to
19 2023 time period, how often do you think something that
20 happened where someone didn't show up and so you -- you
21 just were stuck for another shift?

22 A I would say approximately maybe three or
23 four times maybe.

24 Q Okay. Now, let me get you to look at page 81
25 of Plaintiff's -- Plaintiff's Exhibit 3, please.

1 wonder why that happened today versus, you know,
2 anything else because maybe they're mild-mannered
3 people. So you're like, what was the meltdown for
4 today? You know, because it's not normal.

5 Q Let me press you on some specifics.

6 Who are you specifically referring to as the
7 people who would stick together?

8 A Ms. Angela and Ms. Willa and the other young
9 lady. I can't remember her name. But most of
10 Ms. Angela and Ms. Willa, because they had a prior
11 relationship working at a different location now
12 they're here, and they had friendship outside of work.

13 Q All right. And what were the things that --
14 I think you used the term "murmuring," but what
15 specifically can you think -- remember something that
16 you heard that you were referring to a minute ago?

17 MS. HESLOP: Objection, hearsay.

18 MR. KENNEY: Go ahead.

19 A There were little comments like, I had to
20 snatch the little B up today, and it's like, you know,
21 why? What happened? Because we do have safety
22 precautions to not only protect ourselves, but the
23 client if they have physical breakdowns. So there --
24 you know, there are reasonings, but those are, like,
25 your last resort unless you're being pummeled.

1 So, you know, some things you just -- I don't
2 know, just me being who I am. I just questioned,
3 like --

4 BY MR. KENNEY:

5 Q And the -- the phrase you just used, "I had
6 to snatch the little B -- "B up today", who said that?

7 A Ms. Willa.

8 MS. HESLOP: Objection, hearsay.

9 BY MR. KENNEY:

10 Q I'm sorry, one more time?

11 A Ms. Willa.

12 Q And when?

13 A This was like in the midst of her coming off
14 her shift.

15 Q So this was --

16 A Said out.

17 Q -- said to you?

18 A Correct.

19 Q Who was she referring to?

20 A I'm not sure because when you first come
21 in -- I don't know about anybody else, but when you
22 work that -- that shift, when you first come in, you're
23 basically wanting the meat and potatoes of what
24 happened. Like, everything else is just, like, kind of
25 like she said, hearsay. I just want to know what

1 happened. So you can really go, so I can start my
2 shift.

3 Because when you've got more than that
4 one person there -- like I said, you've got your light
5 sleepers, so if they can hear conversation, sometime
6 that piques their interest, and they're up, or, you
7 know -- so just to minimize, it's -- basically, you
8 just need the meat and potatoes. So, you know, as
9 you're going out the door, some things that you may
10 say, I hear it, but I don't hear it because it's not as
11 of importance to me.

12 Q I thought I understood you sort of earlier in
13 our conversation, explain that when you take over a
14 shift, you -- you get a report.

15 A Right.

16 Q Okay. Is that what you're describing now?

17 A Correct.

18 Q All right. And -- and just so the record's
19 clear, I mean, you use the term "B."

20 Is that the word that Ms. Manigault used?

21 A No. The actual word is bitch.

22 Q Okay. Other comments of that sort, of that
23 type that you can recall sitting here today about
24 consumers?

25 MS. HESLOP: Objection, hearsay again.

1 I'm sorry.

2 A Yes. I mean, Ms. Angela has said, you know,
3 that when it comes to Sierra that she's had to
4 physically restrain her. But again, I've never seen
5 Sierra become physical, so I can't say that it did
6 happen or it didn't happen.

7 BY MR. KENNEY:

8 Q Have you ever had to restrain Sierra?

9 A Never.

10 Q Have you ever had to -- well, let me ask it
11 this way.

12 Would it be appropriate ever to use force in
13 a punitive way?

14 A I don't understand.

15 Q To -- to touch a consumer in a punitive way,
16 is that appropriate or inappropriate?

17 A It's -- I'm not going to say appropriate or
18 inappropriate. There are times when you don't have an
19 option, and that's because you're being physically
20 attacked.

21 Q Sure.

22 A But unless the consumer is being physically
23 aggressive towards you, no.

24 Q Sierra ever been physically aggressive toward
25 you?

1 A No.

2 Q How about the other three ladies in the
3 house, were they ever physically aggressive toward you?

4 A No.

5 Q So you've never had to defend yourself?

6 A Never.

7 Q All right. Outside of self-defense --

8 A Correct.

9 Q -- okay -- is it okay to punish a consumer
10 with some sort of physical force --

11 A No.

12 Q -- some sort of touching?

13 A No.

14 Q All right.

15 A Because that goes against everything that
16 we're there for.

17 Q All right. Let's go back to the statement
18 just so I'm clear. You told me you wrote it on
19 January 6, 2023, and that there may be some confusion
20 with the dates in the statement.

21 Do you have a clear recollection of who asked
22 you to -- to write it?

23 A I honestly don't.

24 Q Go to page 1, please.

25 I think you said you've not seen this

1 again, it's more than likely she's asleep.

2 Q How about during the day?

3 A She's upbeat. I mean, she -- she's Sierra.
4 Like, she's a very upbeat person.

5 Q How would you describe your relationship with
6 her?

7 A I would say that we were pretty -- I would
8 say we were pretty good.

9 Q Okay.

10 A Yeah.

11 Q How -- did you have any reason to observe her
12 interactions with other staff members?

13 A I wouldn't say reasons. I would -- I can
14 only go by some things that she say.

15 Q What did she say?

16 A Like --

17 MS. HESLOP: Objection, hearsay.

18 THE WITNESS: -- she may have said that,
19 you know, Ms. Willa hit me or Angela
20 threatened me or hit me or something like
21 that. But with that, you've got to be kind
22 of careful because I don't know what to
23 place, so I didn't -- I -- I wouldn't know if
24 that person was angry at, you know, the staff
25 members. So with me, again, the body audits.

1 And again, I guess -- I guess you would say
2 you pay a little bit more attention just to
3 see to make sure that there's nothing
4 physical happening.

5 BY MR. KENNEY:

6 Q When would she say things like that to you
7 about --

8 A First thing in the morning as soon as she
9 wake up, during shower time, breakfast time.

10 Q Give me a specific example of what -- that
11 you remember.

12 A Like, she's expressed that Willa has hit her,
13 but it -- it would be during shower time or something
14 of that nature. But again, I don't see it, any
15 physical, so I can't say that it did or it didn't
16 happen.

17 Q When she told you that, what, if anything,
18 did you do?

19 A I asked her why. What happened?

20 Q What'd she say?

21 MS. HESLOP: Objection, hearsay.

22 A She would just say something maybe about the
23 linen. She peed on herself or something of that
24 nature. More than likely, she -- you know, I -- I
25 won't say that I wouldn't know whether she peed on

1 herself or not, because it kind of depends --

2 BY MR. KENNEY:

3 Q Sure.

4 A -- because they do their own laundry, you
5 know. So you're just there. So I don't know what
6 sheet she may have had on, you know, at that particular
7 time when the incident took place.

8 Q I understand that.

9 And I mean, it -- would it surprise you if
10 Sierra had a -- a toileting accident from time to time?
11 Would that be out of the ordinary?

12 A No, because sometimes Sierra would take off,
13 I guess, the adult diaper.

14 Q Yeah.

15 A So sometimes she'd take it off, so not
16 really.

17 Q Okay. So that's something that happened?

18 A Correct.

19 Q And you have this one incident that you
20 remember her telling you that Ms. Manigault hit her in
21 response to that?

22 A Correct.

23 MS. HESLOP: Objection, hearsay.

24 BY MR. KENNEY:

25 Q Do you have other examples of -- of instances

1 like that, that you remember?

2 A Not just off the top of the head because they
3 came far and few in between, so --

4 Q Okay. If you wanted to get Sierra to comply
5 with something, take a shower, go to -- go to active
6 day, what were some of the strategies that you could
7 use?

8 A Number 1 would be going to mom and dad's
9 because that was her thing, right?

10 Q Tell me what you mean by that.

11 A If -- Sierra, if you do this, you know, your
12 day -- your day -- appointment with mom and dad's
13 coming up, and then that sparks her to do something. I
14 mean, honestly, if you've run out of everything, and I
15 hate to say it, but I'll be like Ms. Angela's coming,
16 and immediately, she's on point.

17 Q What do you mean by that?

18 A Like, if I'm trying to get you to do
19 something and I know that there's a certain timeframe
20 that we're supposed to be in and I've tried everything,
21 I'd be like, Okay. Well, you have to deal with it when
22 Ms. Angela gets here.

23 Q And how would she respond?

24 A Immediately doing whatever it was that you
25 need her to do.

1 Q How would you describe in terms of her
2 demeanor when you would say Ms. Angela's coming --
3 what -- what, if anything, would you observe about her
4 demeanor?

5 A It would go from up here to right here
6 instantly.

7 Q And what is that? I mean, explain to me
8 what --

9 A It would look more like fear, honestly,
10 like --

11 MS. HESLOP: Objection, speculation.

12 BY MR. KENNEY:

13 Q And that's just the look on her face?

14 A Yeah.

15 Q Did you ever see that look in other
16 circumstances aside from invoking Ms. Stuckey's name,
17 other circumstances where you would see that same look?

18 MS. HESLOP: Objection, speculation.

19 A Just if, say, for instance, it was those
20 nights that maybe Ms. Willa or somebody, you know, was
21 getting picked up late and she comes out to the
22 bathroom and thinking it's probably only me and she
23 sees them, then she goes back in the room. She has to
24 go to the bathroom, she goes back in her room.

25

1 seen anything.

2 But I know there's been some times where
3 you've gone in there, and now it's dead silent, you
4 know. You go in, there might be -- some words are said
5 or anything, and then Sierra's on the straight and
6 narrow, so I don't know.

7 **Q And I just want to be sure I understand.**
8 **Tell me more about what you're -- what you're**
9 **specifically referring to about that.**

10 **What -- what do you mean?**

11 A Like I just said, if Sierra was having one of
12 those slow poke mornings and Ms. Angela did get there,
13 you know, she'll -- she'll go in, and she's very
14 bo- -- boisterous anyway. She's loud. So she may go
15 in and be like, Sierra, I told you to do such and such
16 and such, and you hear the door slam, and all of a
17 sudden it's dead silence. And now Sierra's doing what
18 she needs to do, so --

19 **Q You -- you would hear her yelling at her?**

20 A Yeah.

21 **Q How often did you hear that?**

22 A Almost every day. Not just her, everybody.

23 **Q Yeah. Tell me who else yelled at Sierra.**

24 MS. HESLOP: Objection.

25 A Again, like I said, at night, she's normally

1 asleep. The -- the only person I can just blur out
2 would be Ms. -- Ms. Angela.

3 BY MR. KENNEY:

4 Q Because you were there? You've heard it?

5 A Yeah.

6 Q All right. Did you ever yell at Sierra?

7 A No, I just had to use the famous word.

8 Q Which was?

9 A Ms. Angela.

10 Q Okay. Let me ask you about -- with respect
11 to murmurs and things like that, in this statement,
12 like, Plaintiff's Exhibit 4 that we're talking about
13 earlier, did you ever hear anything? Were you ever
14 told anything about anything with Sierra and her
15 parents?

16 A Now, I did hear --

17 Q Yeah.

18 A -- that Sierra had went home, and there was a
19 misappropriation between her and her dad, whatever that
20 was, and she came back with bruises. Again, I didn't
21 see any bruises, so I can't say that that's what took
22 place.

23 Q Who told you that?

24 A Ms. Angela.

25 Q Anybody else tell you that?

1 A Ms. Willa. And Ms. Shirley was there when it
2 was being said, so --

3 Q Were all four of you there at the same time
4 when this conversation happened?

5 A No.

6 Q So these were separate conversations?

7 A Correct.

8 Q Okay. So would it have been two separate
9 conversations?

10 A It would be, like, little insinuations as far
11 as -- if I was the type of person that would be swayed
12 by what to say, I would feel like whatever they're
13 saying, I would go with it because they had a
14 commodity. Like, these were -- they did things outside
15 of work. So it was certain things, you know, they may
16 say, you know.

17 For example, we've all got to stick together.
18 I don't know what all of us sticking together is
19 because what are we sticking together to do type of --
20 I don't know. I've -- I've always been an overthinker.
21 So when you say little things like that to me, it makes
22 me question, what do we -- what -- what -- what are we
23 sticking together on?

24 Q Who would -- who said that to you?

25 A Ms. Angela has said it. Not so much

1 Ms. Shirley. Ms. Willa has said it, you know. We all
2 have to stick together, and I don't know what that
3 meant.

4 Q And in terms of these conversations you
5 described a minute ago about Sierra bruising and her
6 parents --

7 A Correct.

8 Q -- I just want to be crystal clear on what
9 your perception of the statements were to you.

10 A When I heard it -- like I said, it was more
11 so -- I was thinking you were letting me know what had
12 taken place because again, I wasn't there, so I don't
13 know. So I was thinking maybe you're trying to fill me
14 in.

15 Q Yeah.

16 A But after a while -- like I said, I never
17 knew anything was going on as far as a lawsuit or
18 anything like that.

19 Q Sure.

20 A But I did hear, you know, there's going to be
21 some type of home investigation, meaning at the Thistle
22 house around the subject, because somebody reported
23 that they saw something.

24 Again, I can only tell you what I saw. And
25 based on my body -- you know, charts or whatever,

1 Community Options?

2 A No.

3 Q Were you ever demoted?

4 A No.

5 Q Were you ever forced to do additional
6 training?

7 A No.

8 Q In fact, when you left and came -- moved to
9 Georgia, where we are today in Atlanta, you got a job
10 with the Atla- -- the Georgia company?

11 A Correct.

12 Q All right. And how long did you do that?

13 A That was about six months to a year after the
14 fact.

15 Q Okay. Did you ever have any issues while you
16 were working in Georgia with the Community Options
17 company?

18 A No.

19 Q All right. Okay. Okay. A couple other
20 things.

21 Are you familiar with something called
22 Sierra's tablet?

23 A Yes.

24 Q Tell me what you know about Sierra's tablet?

25 A That it was always in -- in the closet.

1 **Q Why was it in the closet?**

2 A I guess that's a behavior. Maybe she wasn't
3 doing something that she was supposed to, so they took
4 it.

5 **Q So it would be a punishment in response to a**
6 **behavior?**

7 A Correct.

8 MS. HESLOP: Objection.

9 BY MR. KENNEY:

10 **Q How often would it be in the closet.**

11 A I have never seen her with it, so yeah.

12 **Q Was that punishment part of Sierra's**
13 **behavioral support plan?**

14 MS. HESLOP: Objection.

15 A I don't ever recall it being a part of it
16 other than, you know. That's where she watched the
17 YouTubes.

18 BY MR. KENNEY:

19 **Q Or she liked using her tablet?**

20 A Right.

21 **Q That was her personal property?**

22 A Correct.

23 **Q Did you ever take it out of the closet and**
24 **give it back to her?**

25 A I've never taken that item because -- and

1 given it back to her, but she had some colorful lace --

2 Q Yeah --

3 A In -- in --

4 Q -- tell me about, yeah.

5 A -- a bag. And one day, she was asking about
6 it, so I saw it. I just gave it to her, and then that
7 morning, Ms. Angela took it back.

8 Q So you saw the tablet in the closet?

9 A Not the tablet, just the lace.

10 Q Okay.

11 A I've never seen the tablet.

12 Q I see. So let's just be crystal clear about
13 this.

14 This incident you're talking about with the
15 lace, you saw her lace in the closet, yes?

16 A Yes.

17 Q You gave them to her?

18 A Yes.

19 Q She wanted them?

20 A Yes.

21 Q And then when did Ms. Angela show up?

22 A About 7:00 a.m.

23 Q And what happened?

24 A And then Sierra was coming out with them, and
25 Ms. Angela was like, didn't I take those from you? And

1 she took them back and put them back in the closet.

2 Q All right. And the tablet was in the closet,
3 too?

4 MS. HESLOP: Objection.

5 A That I heard. I've never laid eyes on the
6 tablet. I couldn't tell you if she had one or not. I
7 just know in speaking whenever you're doing the shift,
8 so the tablet's in the closet. Okay. Because I've
9 never been one. I guess if I didn't take it from you,
10 I'm not going to give it back to you.

11 This one incident with the lace, it was
12 because I was in the closet. Sierra walked up, and she
13 was like, oh, so I was just like, okay, because they're
14 lace, like I don't see where it could cause harm, so I
15 just gave it to her.

16 BY MR. KENNEY:

17 Q Sure.

18 Is the closet locked?

19 A Yes.

20 Q Were there other things in the closet, to
21 your recollection, that belonged to Sierra?

22 A There are other things in the closet that
23 belonged to the people in the house. Now who
24 specifically? I can't say. Like, it -- it may have it
25 labeled. But again, if I didn't take it from you, I

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	CIVIL ACTION NO.: 2023-CP-08-03019
	)	
Joy D. Phillips Individually and as Guardian of	)	
Sierra A. Phillips, and James C. Phillips,	)	
	)	DEFENDANTS COMMUNITY OPTIONS,
Plaintiff,	)	INC., ANGELA STUCKEY, SHIRLEY
	)	ANDERSON, AND WILLA MANIGAULT’S
vs.	)	MEMORANDUM OF LAW IN
	)	OPPOSITION TO PLAINTIFFS’ MOTION
Community Options, Inc., Angela Stuckey,	)	TO COMPEL DOCUMENT REQUEST NO.
Shirley Anderson, and Willa Manigault,	)	12 AND FOR SPOILATION INSTRUCTION
	)	
Defendants.	)	
	)	

Defendants Community Options, Inc. (“Community Options”), Angela Stuckey (“Stuckey”), Shirley Anderson (“Anderson”), and Willa Manigault (“Manigault”), (collectively, “Defendants”), by and through their undersigned counsel, hereby submit this Memorandum of Law in Opposition to Plaintiffs Joy D. Phillips (“Joy”), Individually and as Guardian of Sierra A. Phillips (“Sierra”), and James C. Phillips’ (“Chris”), (collectively “Plaintiffs”), Motion to Compel Document Request No. 12 and for Spoilation Instruction (“Motion to Compel”).

BACKGROUND AND PROCEDURAL HISTORY

This case involves Sierra, a now 29-year-old female, with certain physical and cognitive deficits since birth, who previously resided at Thistle, a community training home, level 2, operated by Community Options, a non-profit organization. Simply stated, this case arises out of Anderson’s Omnibus Adult Protection Act mandatory report made to the South Carolina Law Enforcement Division (“SLED”) on January 2, 2023, at the direction of her supervisor, and to the North Charleston Police Department (“NCPD”) on January 3, 2023, at the direction of SLED (“Mandatory Report”).¹ More specifically, Anderson reported Sierra’s allegations that her parents hit her with a belt and that her father, Chris, shaved

¹ See S.C. Code Ann. § 43-35-5 (“This chapter may be cited as the Omnibus Adult Protection Act.”); see also § 43-35-25 (Persons required to report abuse, neglect, or exploitation of adult; reporting methods.).

her pubic hair during a shower while she was on a home visit with them between December 28, 2022, and December 31, 2022.² See NCPD Police Report. An investigation was conducted by law enforcement. Sierra's allegations against Joy and Chris were unsubstantiated and, therefore, the case was closed on February 6, 2023. A week later, on February 13, 2023, Sierra's parents picked her up from Thistle, and she went to live with Joy at her home in Carolina Shores, North Carolina. In turn, on March 21, 2023, Chris reported to SLED that Sierra alleged Anderson and Manigault physically abused her on January 3, 2023. Law enforcement investigated Chris' report, determined the allegations to be unfounded, and the case was closed with no further follow-up necessary on April 20, 2023.

Plaintiffs filed a Summons and Complaint against Defendants on October 25, 2023, asserting causes of action for: (1) Assault and Battery; (2) Defamation and Defamation *Per Se*; (3) Civil Conspiracy; and (4) Negligent Hiring and Supervision. The parties then exchanged extensive written discovery. Specifically, Defendants answered Plaintiffs' First Interrogatories and Requests for Production on January 11, 2024, producing approximately 3,904 pages of documents and a Privilege Log. Defendants supplemented their responses to Plaintiffs' First Interrogatories and Requests for Production on August 30, 2024, producing approximately 2,633 additional pages of documents. On September 18, 2024, Defendants supplemented their discovery responses for a second time, producing another 78 pages of documents, all of which consisted of email communications and text messages. Additionally, eight (8) depositions were taken, including the depositions of all Individual Defendants. Finally, mediation was conducted with M. Dawes Cooke, Esq. serving as mediator, on December 3, 2025, which resulted in an impasse.

Plaintiffs filed the instant Motion to Compel on August 28, 2025, related to Plaintiffs' Document Request No. 12.³ Specifically, Plaintiffs demand Stuckey, Anderson, and Manigault (collectively,

² Joy and Chris admitted that Chris shaved Sierra's pubic hair during the home visit that occurred between December 28, 2022, and December 31, 2022. See Chris Dep. 117, 159; See Joy Dep. 142, 144-145.

³ It does not appear that Plaintiffs' demand extends to subsections (d) or (e) of Document Request No. 12. However, to the extent necessary, Defendants continue to maintain their previous objections that requests for information related to "any resident", not Sierra, are not permitted as the information of other residents is protected by state and federal laws, and Defendants reserve the right to supplement this argument if/when needed. See Hollman v. Wolfson, 384 S.C. 571, 580, 683 S.E.2d 495, 500 (2009) ("[N]o protective device can limit the invasion of the nonparty patients' privacy once contact with them is permitted. The nonparty patients have a valid and legitimate

“Individual Defendants”), surrender their personal cell phones “to their counsel” for a *carte blanche* “forensic collection and review of . . . text messages and other [responsive] communications[,]” on the grounds that Plaintiffs do not “trust” that Defendants have produced all information and documents responsive to Document Request No. 12.⁴ See Pl. Mot 6.

DOCUMENT REQUEST NO. 12 & SUPPLEMENTAL DISCOVERY

On January 11, 2024, Defendants served their responses to Plaintiffs’ First Set of Interrogatories and Document Requests, including Document Request No. 12, which sought the following:

Request No. 12: *All communications (e.g., letters, emails, text messages, direct messages, social media messages, etc.) relating to:*

- a. Sierra,
- b. Joy,
- c. Chris,
- d. Reports of abuse, neglect, or injury of any resident of Thistle CTH II.
- e. Reports of abuse, neglect, or injury of any resident in a Community Options’ facility or home.

On August 30, 2024, Defendants served Plaintiffs with Defendants Supplemental Answers to Plaintiffs’ First Set of Interrogatories and Document Requests, producing approximately 2,633 pages of additional documents. While Defendants did not specifically supplement their Responses to Document Request No. 12 at that time, Defendants supplemented their Answers with the following responsive information:

Interrogatory No. 7: *State all your telephone numbers (including cell phones), email addresses, and messaging application handles (e.g., Snapchat, Telegram, etc.). Your response to the request for telephone numbers should include a statement of the carrier. Your response to the request for messaging application handles should include a statement of the service or application.*

SUPPLEMENTAL ANSWER:

Subject to the foregoing, Community Options identifies the following:

expectation that their medical information will remain confidential which outweighs respondents’ intent to use this personal information to buttress their claims Both the State and Federal government have recognized the importance of the privacy rights of patients[.]”); see also 42 U.S.C.A. § 1320d-6 (prohibiting the disclosure of individually identifiable health information as defined in the HIPAA privacy regulation without authorization); S.C. Code Ann. § 44-22-100(B)(2) (prohibiting the disclosure of records which are prohibited or regulated by federal law).

⁴ Defendants also filed a Motion for Protective Order pursuant to Rule 26, SCRCP, which is pending.

Telephone Number: (843) 879-3270
 Carrier: Verizon
 Email Address: Alan.Rose@comop.org

STUCKEY SUPPLEMENTAL ANSWER:

Subject to the foregoing, and upon information and belief, Stuckey's telephone number is (843) 345-3927, and her email address is astuckey1966@gmail.com. Stuckey objects to providing her cellphone carrier as she shares her plan with other individuals not affiliated with Community Options.

ANDERSON SUPPLEMENTAL ANSWER:

Subject to the foregoing, and upon information and belief, Anderson's telephone number is (843) 224-6932, her carrier is T-Mobile, and her email address is shirleywise1958@yahoo.com.

MANIGAULT SUPPLEMENTAL ANSWER:

Subject to the foregoing, and upon information and belief, Manigault's telephone number is (843) 303-4292, her carrier is T-Mobile, and her email address is willa.bmanigault@yahoo.com.

Interrogatory No. 8: *State your username for all social media accounts. Your response should include the username or account handle, the platform, and the approximate date the account was created.*

SUPPLEMENTAL ANSWER:

Subject to the foregoing, Community Options identifies the following:

- a. Facebook: Community Options, Inc.
- b. Twitter: @coinational
- c. YouTube: @CommunityOptions
- d. Instagram: communityoptions
- e. LinkedIn: Community Options, Inc.

STUCKEY SUPPLEMENTAL ANSWER:

Subject to the foregoing, and upon information and belief, Stuckey's Facebook username is angela.stuckey.399.

ANDERSON SUPPLEMENTAL ANSWER:

Subject to the foregoing, and upon information and belief, Anderson's Facebook username is shirley.anderson.718689.

MANIGAULT SUPPLEMENTAL ANSWER:

Subject to the foregoing, and upon information and belief, Manigault's Facebook username is willa.manigault, and her Instagram username is willamanigault.

Interrogatory No. 23: *State with specificity whether you ever witnessed bruising, bleeding, or any type of physical injury on Sierra and, if so, describe the time, date, circumstances, and any persons present who you believe also witnessed what you saw.*

ANDERSON SUPPLEMENTAL ANSWER:

Anderson took photos which are produced herewith.

On September 18, 2024, Defendants served their Second Supplemental Answers to Plaintiffs' First of Interrogatories and Document Requests, producing another 78 pages of documents, along with the additional supplemental Answers:

Interrogatory No. 3: *Set forth a list of photographs, plats, sketches, or other prepared documents in possession of the party that relate to the claim or defense in the case.*

SECOND SUPPLEMENTAL ANSWER:

Community Options reasserts its objections and believes it has adequately detailed the basis for same. Further, Community Options has identified all known responsive information that is not protected by attorney-client privilege. Subject to the foregoing, Community Options identifies the following additional documents:

- a. Emails between Community Options and Plaintiffs (Phillips_Emails_0001-0076)
- b. Text [M]essages between Manigault and Carolyn White on December 31, 2023, and January 25, 2023 (Phillips_Manigault Text Msgs_0001-0002)

MANIGAULT SECOND SUPPLEMENTAL ANSWER:

See text messages between Manigault and Carolyn White regarding Sierra on December 31, 2023, and January 25, 2023 (Phillips_Manigault Text Msgs_0001-0002)

Interrogatory No. 7: *State all your telephone numbers (including cell phones), email addresses, and messaging application handles (e.g., Snapchat, Telegram, etc.). Your response to the request for telephone numbers should include a statement of the carrier. Your response to the request for messaging application handles should include a statement of the service or application.*

STUCKEY SECOND SUPPLEMENTAL ANSWER: Stuckey's phone number is included on her son's cellular plan with AT&T.

Interrogatory No. 8: *State your username for all social media accounts. Your response should include the username or account handle, the platform, and the approximate date the account was created.*

STUCKEY SECOND SUPPLEMENTAL ANSWER: Stuckey believes her Facebook username is angelastuckey66.

ANDERSON SECOND SUPPLEMENTAL ANSWER: Anderson is unable to determine her Facebook username.

Interrogatory No. 9: *Identify by year, make, and model number all smart phones, tablets, and laptops you own.*

SECOND SUPPLEMENTAL ANSWER: Thistle CTH II uses Chromebooks. In 2020, Community Options issued Thistle CTH II a Chromebook with Serial No. MP1Q166Q.

STUCKEY SECOND SUPPLEMENTAL ANSWER: Stuckey's cell phone is an iPhone 12.

ANDERSON SECOND SUPPLEMENTAL ANSWER: Anderson's cell phone is a Samsung Galaxy A21.

MANIGAULT SECOND SUPPLEMENTAL ANSWER: Manigault's cell phone is a Samsung Android.

Finally, Plaintiffs deposed Individuals Defendants on May 28, 2025, and May 29, 2025.

LEGAL STANDARDS

A. Limitations on Discovery

Unless otherwise limited by order of the court, [p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action[.]" Rule 26(b)(1), SCRCP. "Although the scope of discovery is broad, requests must show a reasonable expectation of obtaining information that will aid in the dispute's resolution." Oncology & Hematology Assocs., 387 S.C. 380, 388, 692 S.E.2d 920, 924 (2010) (quoting In re CSX Corp., 124 S.W.3d 149, 152 (Tex. 2003)). Thus, "discovery requests must be 'reasonably tailored' to include only relevant matters." Id. at 388, 692 S.E.2d at 924-25 (quoting In re CSX Corp., 124 S.W.3d 149, 152); id. (noting that the lower court "correctly identified the 'central issue' in the case before it" for its determination of whether discovery requests were within the parameters of Rule 26 and holding that the respondent's discovery requests were "not remotely relevant to resolution of the issue") (quoting In re CSX Corp., 124 S.W.3d 149, 152)); see also Hollman v. Woolfson, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009) (explaining that information sought in discovery must be "relevant and necessary" to the case). Accordingly, "the trial court must make an effort to impose reasonable discovery limits." Oncology, 387 S.C. at 388, 692 S.E.2d at 924; see e.g., Hamm v. S.C. Pub.

Serv. Comm’n, 312 S.C. 238, 241, 439 S.E.2d 852, 854 (1994) (citations omitted) (discussing that “[w]hen the discovery process . . . become[s] abusive or create[s] a particularized harm to a litigant or third party, the Rules allow the trial judge broad latitude in limiting the scope of discovery” to protect a party or person).

In determining whether information is “relevant and necessary,” the party seeking the information must “demonstrate with specificity exactly how the lack of information will impair the presentation of the case on the merits to the point that an unjust result is real, rather than a merely possible, threat.” Hollman, 384 S.C. at 578, 683 S.E.2d at 498 (quoting Laffitte v. Bridgestone Corp., 381 S.C. 460, 476, 674 S.E.2d 154, 163 (2009)). Accordingly, the Court is required to “weigh the factors of whether the information sought is ‘relevant and necessary’ evidence against any particularized harm the opposing party may suffer.” Id.

B. Spoliation

Spoliation is the “intentional destruction, mutilation, alteration, or concealment of evidence.” Spoliation, Black’s Law Dictionary (12th ed. 2024). Spoliation refers to the “destruction or material alteration of evidence or . . . the failure to preserve property for another’s use as evidence in pending or reasonably foreseeable litigation.” See Silvestri v. Gen. Motors Corp., 271 F.3d 583, 590 (4th Cir. 2001) (citing West v. Goodyear Tire & Rubber Co., 167 F.3d 766, 779 (2d Cir. 1999)); see also Austin v. Beaufort Cnty. Sheriff’s Office, 311 S.C. 31, 35, 659 S.E.2d 122, 124 (2008) (noting that spoliation of evidence requires “a pending or potential civil claim”) (citing Hannah v. Heeter, 584 S.E.2d 560, 573 (W. Va. 2003)). South Carolina does not recognize an independent cause of action for spoliation. Cole Vision Corp. v. Hobbs, 394 S.C. 144, 154, 714 S.E.2d 537, 542 (2011). Instead, courts have discretion to sanction a party for spoliation. See e.g., Kershaw Cnty. Bd. of Educ. v. U.S. Gypsum Co., 302 S.C. 390, 395, 396 S.E.2d 369, 372 (1990) (“[T]he selection of a sanction is within the court’s discretion.”). A party can only be sanctioned for destroying evidence that it had a duty to preserve. See § 41:1. Spoliation of [E]vidence: General [C]oncept, Trial Handbook for South Carolina Lawyers (5th ed. 2025) (citing In re Krause, 367 B.R. 740, 99 A.F.T.R. 2d 2007-3098 (Bankr. D. Dan. 2007, decision aff’d, Bankr. L. Rep. (CCH) ¶ 81734, 2010-1 U.S. Tax Cas. (CCH) ¶ 50222, 105 A.F.T.R. 2d 2010-731, 2009 WL 5064348 (D. Kan. 2009), aff’d, 637 F.3d 1160, 2011-1 U.S. Tax Cas. (CCH) ¶ 50314, 107 A.F.T.R. 2d 2011-1606 (10th Cir. 2011)); see

also Austin, 311 S.C. 31, 36, 659 S.E.2d 122, 124 (2008) (emphasizing that “there was no general duty to preserve evidence after the police had terminated a criminal investigation[.]” and, therefore, not every destruction of evidence constitutes actionable spoliation).

While courts have sanctioned parties who lost or destroyed evidence that they had a duty to preserve by allowing the jury to presume that said evidence would have been helpful to the other side, see Kershaw, 302 S.C. at 394, 396 S.E.2d at 372, such a sanction is only proper if the party seeking the sanction “make[s] a showing that the document or evidence might reasonably have supported whatever presumption is being requested of the fact finder,” Pringle v. SLR, Inc. of Summerton, 382 S.C. 397, 405, 675 S.E.2d 783, 787 (Ct. App. 2009). Rule 37(f), SCRCP states, “Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system.” See also Rule 37, SCRCP, advisory committee’s note to 2011 amendment (“Pursuit of electronic discovery must relate to the claims and defenses asserted in the pleadings and should serve as a means for facilitating a just and cost-effective resolution of disputes”).

ARGUMENTS

Plaintiffs’ Motion to Compel demands unlimited access to Individual Defendants’ personal cell phones to perform an inspection of their electronically stored information for an indefinite timeframe. Plaintiffs have not provided, much less established, a legal basis that would require such disclosure(s); instead, this demand is based solely on the grounds that Plaintiffs do not “trust” that Defendants, and by extension their counsel, have produced all communications related to Plaintiffs that would be responsive to Document Request No. 12. Plaintiffs are essentially accusing Individual Defendants of concealing and/or intentionally destroying relevant evidence. Accordingly, Plaintiffs’ Motion to Compel exceeds the permissible scope of discovery under Rule 26, SCRCP, and as such, should be denied.

I. A Broad Examination Of Individual Defendants’ Personal Property Is Improper.

A. No Evidence of Intentional Destruction

Plaintiffs seek an inspection of Individual Defendants' personal cell phones on the basis that Individual Defendants intentionally destroyed or failed to disclose relevant communications in discovery. See Pl. Mot. 4-6. However, there is no evidence of intentional destruction of or non-disclosure of relevant communications by Individual Defendants. In fact, the available evidence shows that Individual Defendants provided all available communications related to the parties and admitted to the deletion of other communications (which may or may not have been relevant to the issue(s) alleged in the case) prior to any anticipation of, let alone existence of, litigation. See Manigault Dep. 21-22; Stuckey Dep. 111. Plaintiffs have reframed the routine and customary deletion of text messages from a personal cell phone as the "intentional destruction" of evidence and speculated as to the existence of relevant communications on Individual Defendants' personal cell phones to justify an impermissible fishing expedition. See Wellin v. Wellin, Nos. 2:13-cv-1831-DCN, 2:14-cv-0652-DCN, 2:13-cv-3595-DCN, 2:14-cv-0579-DCN, 2014 WL 2434636, at *8 (May 28, 2014) (recognizing request to inspect cell phone as "nothing more than an impermissible fishing expedition" where the responding party previously responded that she lacked records responsive to subpoena)⁵. Plaintiffs have not made the requisite showing of intentional wrongdoing (or even negligence) by Individual Defendants with respect to the concealment or destruction of electronic communications. See Cole Vision Corp. v. Hobbs, 394 S.C. 144, 154, 714 S.E.2d 537, 542 (2011) (holding that South Carolina does not recognize a common law cause of action for intentional or negligent spoliation).

B. Plaintiffs' Demand is Based on Speculation

⁵ Plaintiffs' Motion to Compel is misleading as to the photographs of Sierra. Defendants produced photographs taken of Sierra by Anderson in discovery. Further, Defendants disclosed that Carolyn White ("White"), Anderson's supervisor, provided photographs to the Horry County Police Department ("HCPD") at their request. Anderson and White were statutorily authorized by the Omnibus Adult Protection Act to take photographs of Sierra related to the Mandatory Report. See § 43-35-30 ("A person required to report pursuant to this article . . . may take or cause to be taken color photographs of the trauma visible on the vulnerable adult who is the subject of a report. A person required to report under this chapter . . . immediately shall notify the person in charge or the designated agent of the person in charge who shall take or cause to be taken color photographs of visible trauma. . . . All photographs . . . must be provided to law enforcement or to the investigative entity upon request."). There is no testimony or evidence that Individual Defendants, or other Community Options employees, took any photographs of Sierra on their personal cell phones other than the ones taken pursuant to South Carolina law and previously produced in discovery.

Plaintiffs' suggestion that Individual Defendants have failed to disclose all accessible relevant data is based on pure speculation, and courts have consistently held that "mere skepticism that an opposing party has not produced all relevant information is not sufficient to warrant drastic electronic discovery measures." E. Bridge Lofts Prop. Owners Ass'n, Inc. v. Crum & Forster Specialty Ins. Co., No. 2:14-cv-2567-RMG, 2015 WL 12831731, at *2 (D.S.C. Jun. 18, 2015) (citing McCurdy Group, LLC v. Am. Biomedical Group, Inc., 9 Fed. Appx. 822, 831 (10th Cir. 2001); see also Downs v. Virginia Health Sys., Civ. No. 5:13cv00083, 2014 WL 12776888, at * 3 (W.D. Va. June 2, 2014) ("mere desire to check that the opposition has been forthright in its discovery responses is not a good enough reason for a court order compelling an exhaustive computer forensic examination"); Scotts Co LLC v. Liberty Mut. Ins. Co., No. 06-899, 2007 WL 1723509, at * 2 (S.D. Ohio June 17, 2007) ("Plaintiff in this case requests intrusive examination of its opponent's computer systems on the mere suspicion . . . that defendant may be withholding discoverable information. Plaintiff's speculation is, in the view of this Court, entirely insufficient. Plaintiff's few allegations of misconduct, which are adequately explained by defendant, simply do not justify Court-mandated access to defendant's information storage systems.").

C. Plaintiffs' Demand Does Not Outweigh Individual Privacy Concerns

Plaintiffs demand unlimited access to Individual Defendants' personal cell phones to perform a broad forensic examination of their electronically stored information for an indefinite timeframe. Plaintiffs' inspection will inevitably yield production of privileged and confidential information belonging to Individual Defendants including, but not limited to, personal communications with family members, friends, colleagues, providers, legal representatives, confidential and sensitive financial information, location history, and private health information protected by HIPAA. Disclosure of this type of highly sensitive and personal information would indisputably result in harm to Individual Defendants by "exposing the sum" of their private lives. See Riley v. California, 573 U.S. 373, 375 (2014) (stating that more than 90% of American adults who own cell phones keep on their person a digital record of nearly every aspect of their lives); id. at 393-94 ("The term 'cell phone' itself is misleading shorthand; many of these devices are in fact minicomputers that also have the capacity to be used as a telephone. They could just as easily be

called cameras, video players, rolodexes, calendars, tape recorders, libraries, diaries, albums, or newspapers. . . . [T]he possible intrusion on privacy is not physically limited in the same way when it comes to cell phones. The current top-selling smart phone [(in 2014)] has a standard capacity of 16 gigabytes (and is available with up to 64 gigabytes). Sixteen gigabytes translates to millions of pages of text, thousands of pictures, or hundreds of videos. Cell phones couple that capacity with the ability to store many different types of information. . . .”). Further, Plaintiffs’ inspection will likely yield production of privileged and confidential information belonging to individuals other than Individual Defendants. Hollman, 384 S.C. at 580, 683 S.E.2d at 500 (“Both the State and Federal government have recognized the importance of . . . privacy rights . . . [.]”); see 42 U.S.C.A. § 1320d-6 (prohibiting the disclosure of individually identifiable health information as defined in the HIPAA privacy regulation without authorization; S.C. Code Ann. § 44-22-100(B)(2) (prohibiting the disclosure of records which are prohibited or regulated by federal law).

Courts have denied forensic reviews of personal devices based on this threat of harm. See John B. v. Goetz, 531 F.3d 448, 459-60 (6th Cir. 2008) (finding that the devices plaintiff sought forensic review of would almost certainly contain personal information and that the district court failed to account properly for significant privacy and confidentiality concerns when ordering forensic review); E. Bridge Lofts Prop. Owners Ass’n, Inc., No. 2015 WL 12831731, at *2 (relying on John B. to prevent the forensic examination of the defendant’s devices); Cross by and Through Steele v. XPO Express, Inc., No. 4:15-cv-2481-BHH, 2016 WL 11519221, at *6 (D.S.C. May 3, 2016) (same); Fed. R. Civ. P. 34(a) advisory committee’s note to 2006 amendment (“Inspection or testing of certain types of electronically stored information or of a responding party’s electronic information system may raise issues of confidentiality or privacy. The addition of testing and sampling to Rule 34(a) with regard to documents and electronically stored information is not meant to create a routine right of direct access to a party’s electronic information system Courts should guard against undue intrusiveness resulting from inspecting or testing such systems.”). The amendment(s) to Rule 34, SCRCP, concerning electronic discovery are substantially similar to the corresponding provisions in the Fed. R. Civ. P. See Rule 34, SCRCP advisory committee’s note to 2011 amendment; see also Roberts v. Peterson, 292 S.C. 149, 152, 355 S.E.2d 280, 281 (Ct. App. 1987) (where a state rule has

adopted the language of a federal rule, federal cases interpreting the federal rules are persuasive in the absence of prior state law).

As such, “the utility of permitting a forensic examination of a personal cell phone must be weighed against inherent privacy concerns.” Tingle v. Hebert, No. 15-626-JWD-EWD, 2018 WL 1726667, at *8 (M.D. LA. Apr. 10, 2018) (quoting John Crane Grp. Corp. v. Energy Devices of Tex, Inc., No. 6:14-cv-178, 2015 WL 11089486, at *3 (E.D. Tex. Feb. 2, 2014) (interpreting the Federal Rules of Civil Procedure which are substantially similar in nature to the SCRCPP)). The South Carolina Supreme Court has recognized that privacy invasions constitute particularized harm justifying protection from discovery. See Hollman, 384 S.C. at 578, 683 S.E.2d at 489-99 (“As to the requirement of particularized harm, no protective device can limit the invasion of the nonparty patients’ privacy . . . Both the State and Federal government have recognized the importance of . . . privacy rights . . .[.]”).

In considering these competing factors, Individual Defendants’ privacy interests clearly outweigh the need for an exhaustive inspection of their personal cell phones. By Plaintiffs’ own admission, the purpose of the inspection is to obtain any concealed or destroyed electronic communications sent to or received by Individual Defendants with relevance to the case. See Pl. Mot. 6, 9. Yet, the demanded forensic examination would require unfettered access to the entirety of Individual Defendants’ personal cell phones without any justification of the need for the same. Plaintiffs have failed to offer any credible explanation that would weigh in favor of an extensive review of voluminous, private and confidential information belonging to Individual Defendants to ascertain the mere existence of suspected concealed or destroyed electronic communications, which are, by definition, irretrievable.

The demanded inspection is an unnecessary and intrusive discovery tactic which raises significant privacy and confidentiality concerns for Individual Defendants and, as a result, should be denied as it exceeds the scope of permissible discovery. See e.g., E. Bridge Lofts Prop. Owners Ass’n, Inc., 2015 WL 12831731 at *2 (quoting John B., 531 F.3d at 460 (“civil litigation should not be approached as if information systems were crimes scenes that justify forensic investigation at every opportunity to identify and preserve every detail.”)).

D. No Attempts Have Been Made to Obtain the Information by Less Intrusive Means

Plaintiffs have not attempted to obtain information regarding Individual Defendants' cell phone usage through any less intrusive means, such as issuing subpoenas for Individual Defendants' cell phone records. Defendants produced the cell phone numbers and carriers of Individual Defendants in written discovery, and Plaintiffs' counsel asked each Individual Defendant for the same information during their depositions but, to date, have not issued any subpoenas for that information. Defendants do not dispute that Anderson called Stuckey and Carolyn White ("White"), her supervisors, regarding Sierra's allegations, and that Anderson texted pictures of Sierra, taken at the direction of White, to Stuckey and White. Those photographs were produced in discovery.⁶ Plaintiffs have absolutely no evidence to support that Individual Defendants routinely texted about Sierra, Joy and/or Chris that would justify such an invasion of personal privacy. Instead, Individual Defendants testified they would use their phones to communicate generally with co-workers about work schedules and other day-to-day work matters and that they frequently made phone calls, with both their personal cell phones and the Thistle house phone, not text messages, to do so. See e.g. Stuckey Dep. 113, 151-152; Anderson Dep. 87-88, Manigault Dep. 18-19.

As to Manigault individually, there is no evidence that anyone texted Manigault at any time related to Sierra, Joy and/or Chris. See e.g. Manigault Dep. 21 ("I don't think I've ever texted Ms. Stuckey."). Manigault testified that she reviewed her phone for any information related to Sierra and produced to her counsel the only text messages she could locate. Manigault Dep. 21-22. Finally, the group text referenced by Plaintiffs in Plaintiffs' Motion to Compel did not include Manigault. Accordingly, there is no reasonable basis to invade Manigault's personal privacy by seizing her personal cell phone when the only evidence is that she has produced all responsive information in her possession.

II. Plaintiffs' Demand For A Forensic Examination Of Individual Defendants' Personal Cell Phones Is Unduly Burdensome.

⁶ They were produced with Defendants' initial responses on August 27, 2024, and Individual Defendants were questioned regarding the produced photographs in their respective depositions.

Plaintiffs' Motion to Compel fails to state the specific time frame of information that would be subject to a forensic review and fails to state any limitations regarding the scope of the review. Cell phones are "mini-computers" that contain multiple applications, including but not limited to, text messages, email server(s), call history, photos, social media, browsers, calendars, etc. See Riley, 573 U.S. at 375 (explaining that cell phones keep a digital record of nearly every aspect of people's lives). Plaintiffs' demand for a forensic review of Individual Defendants' "phones" is, in fact, a demand for an exhaustive dissection of their day-to-day lives without limitation. While discovery is broad, there are limits. Oncology & Hematology Assocs. of S.C. LLC v., 387 S.C. at 388, 692 S.E.2d at 924.

Demanding that Individual Defendants surrender their personal phone for an unknown amount of time is not a small request or minor imposition. Personal cell phones are lifelines for most people, including Individual Defendants, and managing the logistics of work, personal activities, and family obligations without them is nearly impossible. Individual Defendants would be required to (1) take time off work to go to a location where the phone would be accessed and uploaded, (2) wait for an indeterminate amount of time for the upload to occur, (3) be unable to communicate with anyone during that time related to work, family concerns, or even emergencies, and (4) potentially be required to leave the phone overnight and repeat (1) through (3) again the following day until the upload is complete. Finally, no one can guarantee that a forensic review would not otherwise damage their phone or the information contained therein.

Further, conducting forensic examinations of Individual Defendants' personal cell phones would unduly burden Defendants. Electronic discovery, especially forensic data collection due to its complexity, is highly expensive. See Bridge Lofts Prop. Owners Ass'n, 2015 WL 12831731, at *2 ("In light of the expense and difficulty of forensic examinations, 'courts must consider the significant interests implicated by forensic imaging before ordering such procedures.'" (quoting John B., 531 F.3d 448, 460)); The Sedona Principles: Best Practices, Recommendations & Principles for Addressing Electronic Production, Third Edition, 69, 141 (2018) (stating forensic data collection involves additional cost and burden and, "costs cannot be calculated solely in terms of the expense of computer technicians to retrieve the ESI, but must factor in other litigation costs, including the accessibility of the ESI, the interruption and disruption of

routine business processes and IG practices, and the costs of reviewing the ESI. These burdens on information technology personnel and the resources required to review ESI for relevance, privilege, confidentiality, and privacy should be considered in any calculus of whether to allow discovery . . . [i]n addition[to] non-monetary costs (such as the invasion of privacy rights, risks to business and legal confidences, and risks to privileges) . . .”).

Therefore, Plaintiffs’ request is overly broad in scope and time, and therefore, it is unduly burdensome for Defendants to incur the considerable time and expense that would be required to conduct the forensic review demanded. Further, a *carte blanche*, unlimited forensic review of Individual Defendants’ personal cell phones—their “minicomputers” containing personal information regarding all aspects of their lives is unduly burdensome and beyond the permissible scope of Rule 26, SCRCP.

III. Plaintiffs’ Cannot Demonstrate The Necessary “Elements” To Support A Spoliation Sanction Against Defendants.

Plaintiffs’ Motion to Compel requests that “if the messages from the relevant period cannot be retrieved for review, then the court should impose a spoliation sanction as a penalty for Defendants admitted destruction of Electronically Stored Information (ESI)”. See Pl’s Mot. 6. Plaintiffs have offered no evidence that Individual Defendants had responsive information on their personal devices at the time the litigation commenced and, therefore, cannot claim that such information was deleted or destroyed during the course of the litigation or that such deletion was improper. The fact that an individual may get a new device, delete information from a device, or accidentally damage a device in no way supports in the form of a spoliation charge to a jury in this case. Plaintiffs point to deposition testimony as purported evidence of destruction of evidence without any proof that any such evidence actually existed *at the time the litigation was filed*. Instead, the deposition testimony shows that Individual Defendants routinely deleted information from their phones as a matter of personal practice. See Stuckey Dep. 111-12. Such practices do not rise to the level of conduct that should be sanctioned. See Rule 37(f) (“a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system.”).

Upon information and belief, Plaintiffs did not provide a preservation of evidence notice or other documentation that purports to have put Individual Defendants on notice to preserve certain content on their personal devices prior to litigation that has now somehow been violated. See Kershaw Cnty. Bd. of Educ. v. U.S. Gypsum Co., 302 S.C. 390, 394-95, 396 S.E.2d 369, 372 (1990) (finding trial court exercised appropriate discretion in issuing jury instruction related to lost or destroyed evidence where defendant violated an existing court order). Here, Plaintiffs cannot meet their significant burden to establish that Individual Defendants were “intentional, reckless, or negligent” in their handling *of their own personal property* over the course of this litigation.

Further, much of the information Plaintiff seeks, *i.e.*, text messages with photographs taken of Sierra on January 2, 2023, have been produced and testimony has been proffered as to who took the photographs and who they were sent to as part of the Mandatory Report. It is reasonable, and frankly appropriate and respectful, that Anderson, Stuckey, and any Community Options employee who received the photographs related to the Mandatory Report and investigation would then delete those photographs from all devices, after they were preserved in another format, because they depict Sierra’s private parts. There is no evidence or testimony that any Individual Defendant was in possession of any text, photograph, or other communication related to Sierra responsive to Request No. 12 at the time the litigation commenced, other than the text messages produced by Manigault.

In sum, Plaintiffs’ Motion to Compel is a fishing expedition for communications they believe should exist in hopes of bolstering their case. Further, if the requested forensic review is not successful in producing what Plaintiffs’ hope for, they seek sanctions in the form of a spoliation instruction. See Pringle v. SLR, Inc. of Summerton, 382 S.C. 397, 675 S.E.2d 783 (Ct. App. 2009) (“[A]s an initial matter the party seeking the inference must be prepared to make a showing that the document or evidence might reasonably have supported whatever presumption is being requested of the fact finder.”). If a forensic review is ordered and no responsive information is located on Individual Defendants’ devices, Plaintiffs are asking this court to assume that responsive information existed and was intentionally destroyed and seek sanctions. However,

such an assumption ignores any consideration that if and/or when no responsive information is found, Defendants were telling the truth in their discovery responses.

Therefore, Plaintiffs cannot establish the requirements for a Rule 37, SCRCP, sanction in the form of a spoliation charge in this case.

CONCLUSION

Based on the foregoing, Defendants respectfully request that the Court **DENY** Plaintiffs' Motion to Compel.

HALL BOOTH SMITH, P.C.

/s/ Ashley S. Heslop

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Counsel for Defendants

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	CIVIL ACTION NO.: 2023-CP-08-03019
	)	
Joy D. Phillips individually and as guardian of Sierra A. Phillips, and James C. Phillips,	)	DEFENDANTS COMMUNITY OPTIONS, INC., ANGELA STUCKEY, SHIRLEY ANDERSON, AND WILLA MANIGAULT'S
	)	NOTICE OF MOTION AND MOTION TO RECONSIDER THE COURT'S MARCH 25, 2026 ORDER GRANTING PLAINTIFFS' MOTION TO COMPEL DOCUMENT REQUEST NO. 12
Plaintiffs,	)	
v.	)	
Community Options, Inc., Angela Stuckey, Shirley Anderson, and Willa Manigault,	)	
	)	
Defendants.	)	(HEARING REQUESTED)
	)	

Pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure ("SCRCP"), Defendants Community Options, Inc. ("Community Options"), Angela Stuckey ("Stuckey"), Shirley Anderson ("Anderson") and Willa Manigault ("Manigault"), (collectively, "Defendants"), hereby respectfully request that this Honorable Court reconsider and vacate its Order entered on March 25, 2026, granting Plaintiffs Joy D. Phillips, Individually and as Guardian of Sierra A. Phillips, and James C. Phillips' (collectively, "Plaintiffs"), Motion to Compel Document Request No. 12 and for Spoliation Instruction ("Motion to Compel"), ("March 25, 2026 Order"), attached as Exhibit A and incorporated herein by reference.¹

Respectfully, the broad discovery granted in the March 25, 2026 Order exceeds the permissible scope of discovery under Rule 26, SCRCP, and fails to "recognize and enforce" the limits of applicable state and federal law. See Oncology & Hematology Assocs. of S.C. LLC v. S.C. Dept's of Health & Envtl. Control, 387 S.C. 380, 387, 692 S.E.2d S.E.2d 920, 924 (2010) (stating that Rule 26(b) has "limits, which we see trial courts generally unwilling to recognize and enforce[,] and directing "the trial court[s] . . . [to] make an effort to impose reasonable discovery limits."); see also, Order, p. 7, ordering the production of confidential, protected information of non-party vulnerable adults including all "reports of abuse, neglect, or injury of Community Options['] resident[s]." Plaintiffs' demands are improper "shotgun" – style

¹ Defendants' Memorandum of Law in Opposition to Plaintiffs' Motion to Compel is also attached as Exhibit B and incorporated herein by reference.

requests, and the March 25, 2026 Order impermissibly adopts this approach. Further, the March 25, 2026 Order, as written, does not comport with the written instructions provided by the Court and grants relief that was not requested by Plaintiffs at the hearing and/or in Plaintiffs' Motion to Compel. Based on the foregoing, and the reasons discussed further hereinbelow, Defendants respectfully seek the appropriate relief through this Motion to Reconsider.

BACKGROUND

This case involves Sierra Phillips ("Sierra"), a now 29-year-old female, with certain physical and cognitive deficits since birth, who previously resided at Thistle, a community training home, level 2, operated by Community Options, a non-profit organization. Simply stated, this case arises out of Anderson's Omnibus Adult Protection Act mandatory report made to South Carolina Law Enforcement Division ("SLED") on January 2, 2023, at the direction of her supervisor, and to the North Charleston Police Department ("NCPD") on January 3, 2023, at the direction of SLED ("Mandatory Report").² Pls. Mot. 1, 3, 7; Defs. Mem. 1, 2. More specifically, Anderson reported Sierra's allegations that her parents, Joy Phillips ("Joy") and Chris Phillips ("Chris"), hit her with a belt, and that her father shaved her pubic hair during a shower while she was on a home visit with them between December 28, 2022, and December 31, 2022.³ Plfs. Mot. 7; Defs. Mem. 1-2. An investigation was conducted by law enforcement. Plfs. Mot. 7; Defs. Mem. 2. Sierra's allegations against Joy and Chris were unsubstantiated and, therefore, the case was closed on February 6, 2023. Plfs. Mot. 7; Defs. Mem. 2. A week later, on February 13, 2023, Sierra's parents picked her up from Thistle, and she went to live with Joy at her home in Carolina Shores, North Carolina. Plfs. Mot. 3, 7; Defs. Mem. 2. In turn, on March 21, 2023, Chris reported to SLED that Sierra alleged Anderson and Manigault physically abused her on January 3, 2023. Defs. Mem. 2. Law enforcement investigated Chris' report, determined the allegations to be unfounded, and the case was closed with no further follow-up necessary on April 20, 2023. Defs. Mem. 2.

² See S.C. Code Ann. § 43-35-5 ("This chapter may be cited as the Omnibus Adult Protection Act."); see also § 43-35-25 (Persons required to report abuse, neglect, or exploitation of adult; reporting methods.).

³ Joy and Chris admitted that Chris shaved Sierra's pubic hair during the home visit that occurred between December 28, 2022, and December 31, 2022. Chris Dep. 117, 159; Joy Dep. 142, 144-145.

BREIF PROCEDURAL OVERVIEW

On October 25, 2023, Plaintiffs filed a Summons and Complaint against Defendants asserting causes of action for: (1) Assault and Battery; (2) Defamation and Defamation *Per Se*; (3) Civil Conspiracy; and (4) Negligent Hiring and Supervision. Plfs. Mot. 2; Defs. Mem. 2. Subsequently, Plaintiffs served Defendants with their First Set of Interrogatories and Requests for Production, which included Document Request No. 12, seeking the following:

Request No. 12: *All communications (e.g., letters, emails, text messages, direct messages, social media messages, etc.) relating to:*

- a. *Sierra,*
- b. *Joy,*
- c. *Chris,*
- d. *Reports of abuse, neglect, or injury of any resident of Thistle CTH II.*
- e. *Reports of abuse, neglect, or injury of any resident in a Community Options' facility or home. [I wouldn't emphasize these here]*

Plfs. Mot. 3.

On August 28, 2025, Plaintiffs filed the instant Motion to Compel, related to Document Request No. 12. Defs. Mem. 2.⁴ Specifically, Plaintiffs demanded Individual Defendants surrender their personal cell phones “to their counsel” for a “forensic collection and review of . . . text messages and other [responsive] communications[,]” on the grounds that Plaintiffs do not “trust” Defendants have produced all information and documents responsive to Document Request No. 12. Pls. Mot 6; Defs. Mem. 2-3.

⁴ Plaintiffs’ Motion to Compel, did not, and does not, appear to extend to subsections (d) or (e) of Document Request No. 12. Further, Plaintiffs’ counsel neither argued, nor corrected, Defendants’ understanding that only subsections (a), (b), and (c) were allegedly at issue, and subsections (d) and (e) were not discussed at the January 5, 2026 hearing by either of the parties. However, as previously preserved and documented by Defendants in their Memorandum of Law in Opposition of Plaintiff’s Motion to Compel, Defendants maintained, and continue to maintain, their prior objection that requests for information related to “any resident”, not Sierra, are not permitted as the information of other residents is protected by state and federal law, and Defendants reserved the right to supplement this argument if and/or when needed. See Hollman v. Wolfson, 384 S.C. 571, 580, 683 S.E.2d 495, 500 (2009) (“[N]o protective device can limit the invasion of the nonparty patients’ privacy once contact with them is permitted. The nonparty patients have a valid and legitimate expectation that the medical information will remain confidential which outweighs respondents’ intent to use this personal information to buttress their claims. . . . Both the State and Federal government have recognized the importance of the privacy rights of patients[.]”; see also, 42 U.S.C.A. § 1320d-6 (prohibiting the disclosure of individually identifiable health information as defined in the HIPAA privacy regulation without authorization); S.C. Code Ann. § 44-22-100(B)(2) (prohibiting the disclosure of records which are prohibited or regulated by federal law)).

Prior to the hearing on Plaintiffs' Motion to Compel, and as more fully set forth in Defendants' Memorandum of Law in Opposition to Plaintiffs' Motion to Compel, Defendants produced more than six thousand, six hundred (6,600) pages of documents, and identified and provided Plaintiffs' counsel with the following information for all Defendants:

- The telephone numbers and respective carriers for all cellular devices;
- The year, make, and model number of all smart phones, tablets, and laptops;
- All social media accounts, usernames, account handles, and platforms;
- All email addresses;
- All photographs taken by Anderson;
- All emails exchanged with Plaintiffs; and
- All text messages between Manigault and Carolyn White related to Sierra.

Defs. Mem. 3-6. Additionally, eight (8) depositions were completed, including the depositions of all Individual Defendants, which took place over the course of two (2) days. Defs. Mem. 6.

On January 5, 2026, Plaintiffs' Motion to Compel was heard before The Honorable Dale E. Van Slambrook, and Defendants filed their Memorandum of Law in Opposition to Plaintiffs' Motion to Compel prior to the hearing.⁵ On February 18, 2026, the Court asked counsel for Defendants to "submit a proposed Order denying Plaintiff's Motion to Compel based on the January 5, 2026 hearing." See attached Exhibit C. On March 2, 2026, defense counsel e-filed a proposed Order Denying Plaintiffs' Motion to Compel, provided a copy of the same to the Court, and received confirmation of receipt of that proposed Order Denying Plaintiff's Motion to Compel. (Ex. C).⁶ On March 5, 2026, the Court asked counsel for Plaintiffs to "prepare an Order that grants the Motion to Compel[.]" and advised Plaintiffs' counsel that "the spoliation issue d[id] not need to be addressed in the proposed Order." See attached Exhibit D. On March 16, 2026, Plaintiffs' counsel e-filed a proposed Order Granting Plaintiffs' Motion to Compel Document

⁵ For purposes of the record, Defendants also filed a Notice of Motion and Motion for Protective Order pursuant to Rule 26, SCRCP ("Motion for Protective Order").

⁶ Notably, on March 4, 2026, Defendants' Motion for Protective Order was heard before The Honorable Maite Murphy, during which Defendants' counsel requested that the Motion for Protective Order be continued pending entry of Defendants' proposed Order Denying Plaintiffs' Motion to Compel. Judge Murphy agreed to continue the Motion for Protective Order despite Plaintiffs' counsel's objection to the same. As of the date of filing this Motion to Reconsider, a hearing on Defendants' Motion for Protective Order has not been rescheduled.

Request No. 12 and provided a copy of the same to the Court. See attached Exhibit E. On March 25, 2026, the Court entered Plaintiffs' proposed Order Granting Plaintiffs' Motion to Compel.

STANDARD OF REVIEW

Rule 59(e), SCRCP, provides a mechanism for parties to move the court to alter or amend a judgment within ten (10) days following receipt of written notice of the entry of the order. See Rule 59 (e), SCRCP; see also Rule 52(c), SCRCP, (providing that a motion to amend findings or make additional findings must be made not later than ten days after receipt of written notice of entry of judgment). The purpose of a motion to alter or amend is "to request the trial judge reconsider matters properly encompassed in a decision on the merits." Coward Hund Constr. Co., Inc. v. Ball Corp., 336 S.C. 1, 4, 518 S.E.2d 56, 58 (Ct. App. 1999). Hence, a party may file a Rule 59(e) motion "when [it] believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it." Elam v. S.C. Dep't of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004); id. ("A party *must* file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it . . .[.]"). Furthermore, "the proper procedure for correcting factual errors in an order is to file a Motion to Alter or Amend pursuant to Rule 59(e), SCRCP." Doe v. Doe, 324 S.C. 492, 502, 478 S.E.2d 854, 859 (S.C. App. 1996), *rehearing denied*.

GROUND FOR RECONSIDERATION

For the following reasons, this Court should reconsider its March 25, 2026 Order granting Plaintiffs' Motion to Compel:

I. Factual and Procedural Background

The March 25, 2026 Order contains factual errors and material mischaracterizations; specifically, it provides that, "On September 19, 2024, the Defendants served a second supplemental response that included one two-page document purporting to be text messages to or from Manigault concerning Sierra. See Phillips_Manigault Text Msgs_0001-02. It is not clear who it was sent to or when. No other text messages from Stuckey, Anderson, and Manigault have been produced." Order, pp. 3-4. This is false. On September 18, 2024, Defendants served Plaintiffs with Defendants' Second Supplemental Answers to

Plaintiffs' First Set of Interrogatories and Document Requests, specifically identifying "Text [M]essages between Manigault and Carolyn White on December 31, 2023, and January 25, 2023 (Phillips_Manigault Text Msgs_0001-0002)[,]" and producing copies of the same. Prior to that, on August 27, 2024, Defendants specifically identified and produced all photographs taken by Anderson. Further, on August 30, 2024, Defendants served Plaintiffs with Defendants' Supplemental Answers to Plaintiffs' First Set of Interrogatories and Document Requests, specifically identifying again the photographs taken by Anderson (previously produced on August 27, 2024), and as requested by Plaintiffs' counsel, a Verification of [Defendants'] Answers and First Supplemental Answers to Plaintiffs' First Set of Interrogatories. Finally, Anderson and Manigault were deposed on May 28, 2025, and May 29, 2025, respectively, and both were questioned extensively about the subject photographs and text messages.

II. Conclusions of Law

A. **First Conclusion of Law:** The March 25, 2026 Order contains material errors. Not only does it assume there are text messages, but also, it concludes, without any factual support or evidence, that the text messages are responsive and relevant. In support, the March 25, 2026 Order cites to Plaintiffs' Motion to Compel; specifically, "the Phillips argue [that], . . . someone is not telling the truth about what happened to Sierra, which makes contemporaneous text message communications from and between the Defendants critical, perishable evidence." See Order, p. 7 (citing MTC Req. No. 12, p. 6). However, this statement is nothing more than an accusation that is based on pure speculation rather than any evidentiary support and, therefore, is an erroneous and unsupported conclusion of law.

The March 25, 2026 Order also misinterprets the discovery rules and applicable state and federal law as it "concludes that discovery of text messages that relate to Sierra, the Phillips, *and reports of abuse, neglect, or injury of a Community Options resident are relevant to this case*[,]" and orders Defendants to produce such "reports[,]" without any time limitations whatsoever, regardless of whether those "reports" relate to Sierra and/or Plaintiffs' claims (emphasis added). Order, p. 7. "[R]eports of abuse, neglect, or injury of a Community Options' [consumer][,]" to the extent those exist, are completely irrelevant to Plaintiffs' claims and cannot be used by Plaintiffs to prove their case. Oncology, 387 S.C. at 388-89, 692

S.E.2d at 925; Hollman, 384 S.C. at 579, 683 S.E.2d at 499. Community Options’ consumers are vulnerable adults whose rights must be protected pursuant to state and federal law. Additionally, applicable law expressly prohibits Defendants from disclosing protected health information (“PHI”) without procedural safeguards, such as a valid authorization or an individual’s guardian’s consent. 42 U.S.C.A. § 1320d-6; S.C. Code Ann. § 44-22-100(A)(2). Significantly, PHI includes not only treatment records, but also, “any information . . . that relates to . . . the individual’s past, present, or future physical or mental health condition,” including identifiers such as names, birth dates, and addresses. See 42 U.S.C.A. § 1320d; see also, 45 C.F.R. § 164.514(b)(2) (listing 18 specific identifiers); Stuckey Dep.111, 23-25, p.112, 1-15 (testifying that she received appointment reminders and other information related to consumers’ care from their providers).

Further, the March 25, 2026 Order contains no factual support or evidence justifying its decision that “reports of abuse, neglect, or injury of a Community Options[’] resident are relevant to this case[,]” Order, p. 7. Additionally, the March 25, 2026 Order is devoid of any of the required procedural safeguards to protect the confidential, sensitive and protected information of vulnerable, nonparty consumers and, as a result, Community Options is in no position, much less permitted, to make the required disclosure as this would violate applicable law. Finally, the existence of a confidentiality order cannot circumvent federal privacy protections under HIPAA.

B. Second Conclusion of Law: The March 25, 2026 Order contains a material error as it states, “responsive text messages do, in fact, exist.[.]” again, without any factual basis in support of its conclusion.

i. Defendants do not dispute that Anderson called Stuckey and Carolyn White (“White”), her supervisors, regarding Sierra’s allegations, and that Anderson texted pictures of Sierra, taken at the direction of White, to Stuckey and White. Defs. Mem. 13. However, those photographs were already produced in discovery on August 27, 2024, and Individual Defendants were questioned about the text messages and those photographs in their respective depositions. Defs. Mem. 13.

ii. Individual Defendants testified they used their phones to communicate generally with co-workers about work schedules and other day-to-day work matters and that they frequently made phone calls, with both their personal cell phones and the Thistle house phone, *not text messages*, to do so. (emphasis added). Stuckey Dep. 113, 151-152; Anderson Dep. 87-88; Manigault Dep. 18-19.

iii. As to Manigault individually, she testified that she reviewed her phone for any information related to Sierra and produced to her counsel the only text messages she could locate. Manigault Dep. 21-22. Those text messages were produced on September 19, 2024.

iv. Of critical concern, is that the March 25, 2026 Order holds undersigned counsel responsible for the actions of Individual Defendants. The March 25, 2026 Order states that “even if the Individual Defendants acted in good faith, they may have required some technical assistance . . . but that no such assistance was given.” Order, p. 8. There was no argument during the January 5, 2026 hearing, and any testimony or other evidence presented, that Individual Defendants required, much less requested, technical assistance. Order, p. 8. Accordingly, it was improper to conclude that Individual Defendants were denied technical assistance when, in fact, no assistance was ever requested, as justification for the extreme measures demanded by Plaintiffs and adopted by the Court in its March 25, 2026 Order.

C. **Third Conclusion of Law:** The March 25, 2026 Order misstates the facts and misinterprets the discovery rules as well as applicable state and federal law. See supra n. 4. Additionally, Defendants have, and will continue to, supplement their Answers/Responses to discovery requests in accordance with the rules. See Rule 26(e), SCRCP (discussing the parties’ ongoing duty to supplement or correct discovery responses as information is learned); see also Verification of [Defendants’] Answers and First Supplemental Answers to Plaintiffs’ First Set of Interrogatories.

D. **Fourth Conclusion of Law:** The March 25, 2026 Order contains factual errors and conclusions on matters that the Court expressly declined to rule upon. See Ex. D (showing the March 25, 2026 Order is completely inconsistent with the Court’s March 5, 2026 written instruction to Plaintiffs’ counsel that “the spoliation issue does not need to be addressed in the proposed Order.”). Nonetheless, the March 25, 2026 Order contains a “*Fourth*” Conclusion of Law related to spoliation sanctions, along with

purported facts and conclusions of law in support of such sanctions. See Order, p. 10 (devoting an entire page of the twelve (12) page March 25, 2026 Order to spoliation). Accordingly, the Court, pursuant to Rule 59(e), SCRCF, must correct these factual errors and any and all conclusions of law drawn therefrom.

III. Request for Relief

The March 25, 2026 Order adopts Plaintiffs' proposed "protocol" *carte blanche* without setting any reasonable parameters to protect the privacy rights of Individual Defendants, or non-party individuals, as well as any of their confidential, sensitive and protected information.⁷ Further, the March 25, 2026 Order grants relief that is unreasonably burdensome, and directly contradicting the South Carolina Supreme Court's instructions to the trial courts in Oncology. The March 25, 2026 Order, which adopted Plaintiffs' proposed Order Granting Plaintiffs' Motion to Compel, not only exceeds the relief Plaintiffs initially requested in Plaintiffs' Motion to Compel,⁸ but also, is significantly more burdensome and broader than the relief discussed, and even requested, during the January 5, 2026 hearing. More specifically, the March 25, 2026 Order provides that all Defendants' objections to Document Request No. 12 are overruled except as to privilege without providing factual support or evidence justifying its decision, and then goes on to also order Defendants' counsel to complete the following:

- 1) To retain a forensic expert at their own expense within thirty (30) days;
- 2) To conduct the forensic collection and copying of "all accessible text messages" for a period of over six (6) years without any limitations as to scope;
- 3) To review, determine responsiveness, identify as privileged and/or confidential, and produce, with a Privilege Log, over six (6) years' worth of text messages belonging to (3) Individual Defendants within sixty (60) days;
- 4) To obtain and produce a detailed affidavit from Defendants' retained forensic expert regarding his/her forensic examination; and
- 5) To provide an additional affidavit attesting to the items completed as set forth in No. 3 hereinabove.

Order, pp. 11-12.

⁷ Undersigned counsel is no more entitled to access a non-party individual's confidential, sensitive and protected information than any other person who has not been given proper authorization.

⁸ In Plaintiffs' Motion to Compel, Plaintiffs' counsel requested that its Motion to Compel be granted, and "the Court should (1) overrule all Defendants' objections to [D]ocument Request No. 12, (2) order Defendants counsel to forensically collect her clients' personal phones and produce responsive text messages, and (3) sanction the [I]ndividual Defendants with a spoliation instruction if the messages cannot be retrieved." Plfs. Mot. 10.

While the Court ultimately decided to grant Plaintiffs' Motion to Compel, the Court did not specify the relief to be granted, if any, in its March 5, 2026 email. Ex. D. Additionally, the March 25, 2026 Order's *Fourth* Conclusion of Law, regarding spoliation sanctions, is the rationale cited by the Court to "now order a more formal protocol." Order, p. 10. Not only is this decision based on erroneous factual errors and conclusions of law, but also, the protocol adopted by the Court in its March 25, 2026 Order far exceeds any protocol discussed, or even requested, by Plaintiffs' counsel, leaving significant areas of concerns yet to be addressed; thereby, resulting in the parties likely having to return to the Court to obtain necessary clarification on the same. Further, the March 25, 2026 Order, as written, requiring an additional affidavit from defense counsel, unnecessarily imputes the character and integrity of the undersigned as an Officer of the Court in good standing. The March 25, 2026 Order contains no factual basis or evidence to support, much less require, counsel for Defendants to serve as a witness in this case.

REQUEST FOR HEARING

Defendants respectfully request a hearing on this Motion to Reconsider to allow the Court, as well as the parties, to address the matters herein.

CONCLUSION

Defendants respectfully request that this Honorable Court reconsider and vacate, or reconsider and amend certain portions of its March 25, 2026 Order as discussed hereinabove. Such reconsideration is proper as the March 25, 2026 Order exceeds the permissible scope of Rule 26(b), SCRCF, and because it does not comport with the substance briefed, or argued, to the Court in the January 5, 2026 hearing. This Motion to Reconsider is based on the discovery requests and responses in this case, the SCRCF, and any other materials and information the parties may submit to the Court.

HALL BOOTH SMITH, P.C.

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STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Joy D. Phillips individually and
as guardian of Sierra A. Phillips,
and James C. Phillips,

C/A No.: 2023-CP-08-03019

Plaintiffs,

v.

Community Options, Inc.,
Angela Stuckey, Shirley Anderson,
and Willa Manigault,

**ORDER GRANTING
PLAINTIFFS' MOTION
TO COMPEL DOCUMENT
REQUEST NO. 12**

Defendants.

This matter is before the Court via WebEx on January 5, 2026 on Plaintiffs Joy D. Phillips and James C. Phillips' motion to compel Defendants Angela Stuckey, Shirley Anderson, and Willa Manigault in response to document Request No. 12, which seeks communications relating to (a) Sierra A. Phillips, a vulnerable adult and the daughter of the Phillips, (b & c) the Plaintiffs, and (d & e) reports of abuse, neglect, or injury of any resident of a Community Options facility, including the Thistle Community Training Home (CTH) II where Sierra resided.¹ Specifically, the Phillips ask the Court to compel Stuckey, Anderson, and Manigault to surrender their personal cell phones to their lawyer for a forensic examination and collection of text messages and production of the same. The Phillips argue that such messages do, in fact, exist and pertain to core contentions in this case. Attorney Chris Kenney was present on behalf of Plaintiffs and attorney Ashley Heslop attended on behalf of Defendants. The Court heard from the parties and reviewed all available memoranda. For reasons that follow, the motion is **GRANTED**.

¹ All findings of fact and conclusions of law indicated in this Order are made for the purpose of ruling on this motion only.

FACTUAL AND PROCEEDURAL BACKGROUND

The Court has carefully reviewed the submissions of the parties and the record in this case. The factual and procedural background here is complicated but important to this discovery dispute.

The Phillips' Allegations and Claims

According to the Complaint, Sierra is a 27-year-old woman with autism, dwarfism, a heart condition, ADHD, and the mental ability of an 8 to 10-year-old child who was residing in the Thistle CTH II group home for adults with special needs run by Defendant Community Options, Inc. *See* Compl. ¶¶ 6, 11. The Phillips allege that for months, Community Options' employees physically abused Sierra by hitting and kicking her. *See id.* ¶¶ 47–56, 86–91. They allege that, when the staff believed the Phillips might discover the abuse, staff made a false police report accusing the Phillips of physically and sexually abusing their own child. *See id.* ¶¶ 57–85. The Phillips allege that they were investigated by four different police agencies, cooperated fully, sat for interviews, and were cleared by police after 41 days of being restricted from seeing their daughter. *See id.* ¶¶ 79–85. Thereafter, they removed Sierra from Thistle CTH II and brought this action for themselves and Sierra for (1) assault and battery, (2) defamation, (3) civil conspiracy, and (4) negligent hiring and supervision. *Id.* ¶¶ 92–119. The Defendants deny these allegations.

Service of Request No. 12.

This action was filed on October 25, 2023. Discovery, including Request No. 12, was served on Stuckey, Anderson, and Manigault with the Summons and Complaint on October 26, 2023, November 7, 2023, and October 26, 2023, respectively.

On January 11, 2024, all Defendants served responses and objections to the discovery with an initial document production of 21 PDF files consisting of 3,894 pages. No native files or text messages were produced. In response Request No. 12, the Defendants responded:

RESPONSE: Community Options objects to this Request to the extent it seeks the disclosure of information prepared in anticipation of litigation, and information protected by the attorney-client and/or work product privileges. Notwithstanding said objections, please see documents provided herewith.

STUCKEY RESPONSE: See Community Options' Response, incorporating all objections.

ANDERSON RESPONSE: See Community Options' Response, incorporating all objections.

MANIGAULT RESPONSE: See Community Options' Response, incorporating all objections.

DEFs' Resp. RFP 12 (bold and underline original).

On March 5, 2024, the Phillips' counsel sent correspondence outlining nine areas of concern and requested a response or reconsideration of the Defendants' position. *See* PL's MTC at Ex. A. On April 1, 2024, the Phillips moved to compel.

On August 12, 2024, the Clerk issued a notice that the motion would be heard on August 28, 2024. The day before the hearing, the Defendants sent the Phillips a second document production and Defendants' counsel indicated supplemental written responses would follow that would hopefully resolve some outstanding issues. By agreement, the hearing was continued.

On August 30, 2024, the Phillips received a first supplemental response, but it did not include any supplemental production in response to Request No. 12.

On September 19, 2024, the Defendants served a second supplemental response that included one two-page document purporting to be text messages to or from Manigault concerning

Sierra. *See* Phillips_Manigault Text Msgs_0001–02. It is not clear who it was sent to or when. No other text messages from Stuckey, Anderson, and Manigault have been produced.

Stuckey, Anderson, and Manigault’s Depositions

On May 28 and 29, 2025, Stuckey, Anderson, and Manigault were deposed. Notably, all three individuals testified about using their personal cell phones to send work-related texts.

Anderson testified that, on January 2, 2023, she texted from her phone photos she took of Sierra’s bottom with red markings to Stuckey and a Community Options supervisor at the time the allegations against the Phillips were made. *See* Anderson Dep. 41–43, 49–51.² These texts have never been produced, just the photos. Anderson also testified that she would text Stuckey or Manigault using her phone “[t]o let them know something, yes.” *Id.* at 87. When asked if she still had those messages on her phone, Anderson claimed her phone “got messed up, and it had to be reset, yes, so I don’t have those messages anymore.” *Id.* at 87–88. During her deposition—i.e., more than 18 months after she was served with Request No. 12—Anderson testified that she lost these messages “about a month ago.” *Id.* Anderson testified that she never provided her lawyer with access to her phone. *Id.* at 88–89.

Similarly, Stuckey testified that she texts with her work colleagues about what is going on at the group home. *See* Stuckey Dep. 150–51. Stuckey testified that she received the photos of Sierra’s bottom from Anderson via text. *Id.* at 154, 190. Stuckey also testified that she has replaced her phone “two or three times probably” since then but that when she replaced her phone, she migrated the old data to the new phone. *Id.* at 110–11. However, Stuckey also testified: “I always

² Citations to deposition testimony refer to the transcripts filed as Exhibits B, C, and D to the motion to compel Request No. 12, filed on August 28, 2025.

clean my phone out. I clean my phone out basically every day. ... I delete what doesn't need to be because -- for a job reason." *Id.* at 111–12.

Manigault also testified that she texts “back and forth” with her co-workers about work on her personal phone. *See* Manigault Dep. 19–20. Manigault testified that she reviewed her phone (not her lawyer) and produced a single two-page document of a text message to her supervisor Carolyn White. When asked about other text messages to White, she answered:

Q. Is there -- I assume this is not the only time you've texted Ms. White.

A. No, I don't think that's the only time I texted Ms. White.

Id. at 21–22. Manigault maintained that, based on her review, the only text she found “for Sierra” was the two-page document marked Phillips_Manigault Text Msgs_0001–02. *Id.* at 23. Notably, Request No. 12 is not limited to communications solely about Sierra.

Motion and Hearing on the Motion

On August 28, 2025, the Phillips filed this motion asking the Court to (1) overrule all objections to Request No. 12, (2) order Defendants' counsel to forensically collect the individual Defendants' personal phones and produce responsive text messages, and (3) sanction the individual Defendants with a spoliation instruction if the messages cannot be retrieved. *See* PLs' MTC Req. No. 12, p. 10.

On January 5, 2026, the motion came before the Court for a hearing via the WebEx virtual courtroom.³ The Phillips were represented by Christopher P. Kenney, Esq., of Chris Kenney Law. The Defendants were represented by Ashley Heslop, Esq., of Hall Booth Smith, P.C.

³ Citations to the January 5 hearing refer to the hearing transcript, filed March 16, 2026.

During the hearing, Defendants' counsel acknowledged there were text messages between the individual Defendants with photos of Sierra that were purportedly taken at the time the allegations against the Phillips were made, but argued "there was a gap" between the time Sierra left Community Options and when the litigation was filed and that "some of them have gotten new phones over the time frame, some of them have updated phones." Hr.'g Tr. 8–9. The Phillips dispute this contention, arguing that the individual Defendants were served with Request No. 12 in the same calendar year as the messages with the photo and there has been "no effort" by the Defendants to retrieve the messages. *Id.* at 9. The Phillips pointed to testimony from Anderson claiming she "lost" the messages one month prior to her deposition and testimony from Stuckey that she has deleted messages since this litigation began. *See id.* at 9–10. They also argued that when phones are upgraded, old data migrates to the new phone. *See id.*

The Phillips urged the Court to order the individual Defendants to provide their phones to their lawyer for a forensic collection and review and to require filed affidavits explaining what was done to retrieve the information. Hr.'g Tr. 11–12. The Defendants object to this procedure. Defendants' counsel told the Court that neither she nor her office ever inspected the phones for discoverable evidence; "Instead, I asked them [i.e., the individual Defendants], Check your phones, look for anything." *See id.* at 13–14. The Phillips' counsel argued this was a sanctionable admission and disputed the contention that since the individual Defendants "didn't come up with any incriminating messages, [counsel had] no obligation as the lawyers to go and check or to require the client to turn the phone over[.]" *Id.* at 17–18.

LEGAL STANDARD

A trial court's rulings on discovery matters will not be disturbed on appeal absent a clear abuse of discretion. *Arthur v. Sexton Dental Clinic*, 368 S.C. 326, 333, 628 S.E.2d 894, 898 (Ct.

App. 2006). An abuse of discretion occurs when the ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support. *Id.*

CONCLUSIONS OF LAW

The question here is whether Stuckey, Anderson, and Manigault have done enough to collect, review, and produce potentially responsive text messages and, if not, what should be done now to ensure the evidence is gathered and produced. The Court is persuaded by both the facts and the law that the individual Defendants have not fulfilled their obligations under Rules 26 and 34, SCRCP, to diligently collect, review, and produce text messages the Phillips have been requesting since 2023. The motion is **GRANTED** for the following four reasons.

First, text messages responsive to Request No. 12 are undoubtedly relevant within the meaning of Rule 26(b)(1), SCRCP. This case is about allegations that the individual Defendants abused Sierra and sought to cover it up by falsely accusing her parents. Notably, these allegations are hotly contested. As the Phillips argue, “In this case, someone is not telling the truth about what happened to Sierra, which makes contemporaneous text message communications from and between the Defendants critical, perishable evidence.” MTC Req. No. 12, p.6. The Court agrees and concludes that discovery of text messages that relate to Sierra, the Phillips, and reports of abuse, neglect, or injury of a Community Options resident are relevant to this case.

Second, the Court is persuaded by the evidence that responsive text messages do, in fact, exist. The Defendants argue that the “suggestion that Individual Defendants have failed to disclose all accessible relevant data is based on *pure speculation*,” Defs.’ MIO, 10 (emphasis added). The Court disagrees.

Stuckey, Anderson, and Manigault all testified that they used their personal phones to send work-related text messages. According to Stuckey and Anderson, when the abuse allegations were

made on January 2, 2023, and photos were taken of Sierra, the photos were exchanged via text message. Whatever messages were sent, they are obviously relevant and must be produced.

Furthermore, the Phillips point to another text message from December 19, 2022, that Stuckey sent to her supervisor but erroneously included Joy Phillips. *See* MTC Req. No. 12 at Ex. A. In it, Stuckey refers to one of the vulnerable adults as “to [sic] special” and tells her supervisor: “Been at work since 12 last night right now F all then.” *Id.* During her deposition, Stuckey confirmed she was using a four-letter expletive when referring to Sierra and the other vulnerable adults in the group home. *See* Stuckey Dep. 198–205. This message was never produced by the Defendants and confirms precisely what the individual Defendants all testified to during their depositions: namely, that they used their personal phones to discuss work.

It is clear based on this record that responsive messages exist but that, instead of collecting the phones and reviewing the messages for responsiveness, counsel left it to the individual Defendants to decide whether they had responsive messages. The Phillips argue it is not surprising that these individuals failed to produce self-incriminating messages; however, the Court notes that, even if the individual Defendants acted in good faith, they may have required some technical assistance to ensure they were properly identifying potentially discoverable information for further review, but that no such assistance was given. Considering that the record demonstrates the existence of responsive yet unproduced messages, court intervention is now appropriate.

Third, the Defendants’ legal position is also untenable. They urge the Court that “[t]he only text message that has been discussed” is one message sending the photos, *see* Hr.’g Tr. 16, and suggest that the Phillips must prove the existence of other messages before the Defendants are obligated to search for them. *Cf.* Hr.’g Tr. 8, 19 (arguing there has been “no testimony” about the existence of responsive text messages). This is incorrect.

Nothing in the discovery rules places the burden on the requesting party to prove the existence of information requested before the disclosing party is obliged to search for it. When there is no responsive information, the responding party should simply state as much and provide the appropriate certification of the same. *See* Rule 26(g), SCRCP. That is not the case here; here, the Defendants object to responding to Request No. 12.

When a party objects to disclosure, as the Defendants did here, the burden is first on the objecting party to “show[] a particularized harm” that constitutes good cause to protect the disclosing party from annoyance, embarrassment, oppression, or undue burden. *See Hollman v. Woolfson*, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009); *see also* Rule 26(c), SCRCP. Once this initial showing is made, the burden shifts to the requestor to demonstrate relevance and necessity, after which a court will balance any competing concerns. *See id.*

The Defendants’ position is untethered from this framework because they make no factual showing in support of their objections. Defendants’ memorandum is replete with general assertions about courts imposing discovery limits and individual privacy concerns. *See, e.g.*, Defs.’ MIO, 6–7, 10–12. This Court is mindful of its need to impose reasonable limits on discovery and the privacy concerns implicated by cell phone productions. But none of these general principles override the specific facts or the need for the information requested in this case. Cell phone information is not immune to civil discovery, and the Phillips are not proposing that Stuckey, Anderson, and Manigault hand over their devices to Plaintiffs’ counsel for unrestricted review. Instead, the Phillips are asking that the Defendants’ lawyer review the messages with the assistance of a forensic expert and then produce responsive messages. This procedure—requiring collection, review, and production—is no different than the procedure used to produce every other type of document and tangible thing discoverable under Rule 34, SCRCP.

Fourth, while the Court is reserving any ruling on the question of spoliation or sanctions, it is mindful that litigants have duty to ensure perishable evidence is not destroyed during the pendency of a lawsuit. The duty to preserve material evidence attaches when “a party reasonably should know that the evidence may be relevant to anticipated litigation.” *Silvestri v. Gen. Motors Corp.*, 271 F.3d 583, 590–591 (4th Cir. 2001); *see also Kershaw County Bd. of Educ. v. U.S. Gypsum Co.*, 302 S.C. 390, 394, 396 S.E.2d 369, 372 (1990) (explaining an adverse inference may be drawn when evidence is lost or destroyed by a party).

Here, there has been testimony from the individual Defendants that they deleted messages and changed phones. Whether those messages can be recovered is presently unknown, but the Court believes the individual Defendants should try before any decision is made concerning spoliation. The Phillips’ counsel has proposed a protocol for a forensic expert to attempt to retrieve those messages and then furnish whatever is recovered to Defendants’ counsel for a relevance review and production. *See Hr.’g Tr.* 11–12. Because the information sought is discoverable and involving an expert may obviate the need for further proceedings on this issue, the Court agrees a forensic collection and review is needed. The individual Defendants had ample opportunity to avoid this by performing their own diligent search for the requested information. Instead, they objected to Request No. 12, only for the Phillips to demonstrate through other discovery that such information does, in fact, exist. Given these inconsistencies, the Court will now order a more formal protocol. *Cf. Bennett, v. State Farm Fire & Cas. Co., Inc.*, No. 6:23-CV-04234-DCC-KFM, 2025 WL 4234017, at *2 (D.S.C. Jan. 13, 2025) (adopting forensic protocol for phone imaging due to “inconsistencies on the record”).

CONCLUSION

For the reasons set forth above, the motion is **GRANTED** and the Court **ORDERS** the following relief:

1. All objections to Request No. 12 are **OVERRULED** except for any claim under the attorney-client privilege, which must be made through a detailed privilege log.
2. Within 30 days of this Order being filed, the individual Defendants **SHALL** surrender all phones in their possession, including phones that are no longer being used, to their counsel for an expert forensic collection and copying, at the Defendants' expense, of all accessible text messages from January 1, 2017, through October 25, 2023. This collection effort **SHALL** include a documented effort to recover any potentially available text messages from any backup copies of phone data and "Cloud" services (e.g., iCloud, Microsoft 365, etc.).
3. Within 60 days of this Order, Defendants' counsel **SHALL** review all recovered text messages for responsiveness to Request No. 12 and produce the text messages in Excel/csv, PDF, and native forms with all associated attachments in native form to Plaintiffs' counsel along with a privilege log itemizing any claims of attorney-client privilege. Responsive communications referring to vulnerable adults other than Sierra may be redacted to redact the names of those individuals. The communication may also be marked "confidential" under the existing Confidentiality Order (filed Jan. 11, 2024).

4. With the above-referenced production, Defendants **SHALL** serve an affidavit from the forensic expert detailing the devices inspected, the procedures used to recover and collect text messages, whether recovery and collection was successful and if not, why, and the number of potentially responsive messages collected as a result.
5. With the above-referenced production, Defendants **SHALL** also serve an affidavit from their counsel attesting to the procedures used to review and produce collected messages for responsiveness to Request No. 12.
6. Within 30 days of receiving the above-referenced production from the Defendants, the Phillips **SHALL** either file a notice stating that this motion is resolved or file a renewed motion for further proceedings consistent with this Order.

The Court **SHALL** retain jurisdiction of this motion to ensure compliance with this Order and for any further proceedings. The issues pertaining to spoliation and sanctions are reserved.

AND IT IS SO ORDERED.

[Judge's signature page follows]



Berkeley Common Pleas

Case Caption: Joy D. Phillips , plaintiff, et al VS Community Options, Inc. ,
defendant, et al
Case Number: 2023CP0803019
Type: Order/Other

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge
#2781

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	CIVIL ACTION NO.: 2023-CP-08-03019
	)	
Joy D. Phillips Individually and as Guardian of	)	
Sierra A. Phillips, and James C. Phillips,	)	
	)	DEFENDANTS COMMUNITY OPTIONS,
Plaintiff,	)	INC., ANGELA STUCKEY, SHIRLEY
	)	ANDERSON, AND WILLA MANIGAULT'S
vs.	)	MEMORANDUM OF LAW IN
	)	OPPOSITION TO PLAINTIFFS' MOTION
Community Options, Inc., Angela Stuckey,	)	TO COMPEL DOCUMENT REQUEST NO.
Shirley Anderson, and Willa Manigault,	)	12 AND FOR SPOILATION INSTRUCTION
	)	
Defendants.	)	

Defendants Community Options, Inc. ("Community Options"), Angela Stuckey ("Stuckey"), Shirley Anderson ("Anderson"), and Willa Manigault ("Manigault"), (collectively, "Defendants"), by and through their undersigned counsel, hereby submit this Memorandum of Law in Opposition to Plaintiffs Joy D. Phillips ("Joy"), Individually and as Guardian of Sierra A. Phillips ("Sierra"), and James C. Phillips' ("Chris"), (collectively "Plaintiffs"), Motion to Compel Document Request No. 12 and for Spoilation Instruction ("Motion to Compel").

BACKGROUND AND PROCEDURAL HISTORY

This case involves Sierra, a now 29-year-old female, with certain physical and cognitive deficits since birth, who previously resided at Thistle, a community training home, level 2, operated by Community Options, a non-profit organization. Simply stated, this case arises out of Anderson's Omnibus Adult Protection Act mandatory report made to the South Carolina Law Enforcement Division ("SLED") on January 2, 2023, at the direction of her supervisor, and to the North Charleston Police Department ("NCPD") on January 3, 2023, at the direction of SLED ("Mandatory Report").¹ More specifically, Anderson reported Sierra's allegations that her parents hit her with a belt and that her father, Chris, shaved

¹ See S.C. Code Ann. § 43-35-5 ("This chapter may be cited as the Omnibus Adult Protection Act."); see also § 43-35-25 (Persons required to report abuse, neglect, or exploitation of adult; reporting methods.).

her pubic hair during a shower while she was on a home visit with them between December 28, 2022, and December 31, 2022.² See NCPD Police Report. An investigation was conducted by law enforcement. Sierra's allegations against Joy and Chris were unsubstantiated and, therefore, the case was closed on February 6, 2023. A week later, on February 13, 2023, Sierra's parents picked her up from Thistle, and she went to live with Joy at her home in Carolina Shores, North Carolina. In turn, on March 21, 2023, Chris reported to SLED that Sierra alleged Anderson and Manigault physically abused her on January 3, 2023. Law enforcement investigated Chris' report, determined the allegations to be unfounded, and the case was closed with no further follow-up necessary on April 20, 2023.

Plaintiffs filed a Summons and Complaint against Defendants on October 25, 2023, asserting causes of action for: (1) Assault and Battery; (2) Defamation and Defamation *Per Se*; (3) Civil Conspiracy; and (4) Negligent Hiring and Supervision. The parties then exchanged extensive written discovery. Specifically, Defendants answered Plaintiffs' First Interrogatories and Requests for Production on January 11, 2024, producing approximately 3,904 pages of documents and a Privilege Log. Defendants supplemented their responses to Plaintiffs' First Interrogatories and Requests for Production on August 30, 2024, producing approximately 2,633 additional pages of documents. On September 18, 2024, Defendants supplemented their discovery responses for a second time, producing another 78 pages of documents, all of which consisted of email communications and text messages. Additionally, eight (8) depositions were taken, including the depositions of all Individual Defendants. Finally, mediation was conducted with M. Dawes Cooke, Esq. serving as mediator, on December 3, 2025, which resulted in an impasse.

Plaintiffs filed the instant Motion to Compel on August 28, 2025, related to Plaintiffs' Document Request No. 12.³ Specifically, Plaintiffs demand Stuckey, Anderson, and Manigault (collectively,

² Joy and Chris admitted that Chris shaved Sierra's pubic hair during the home visit that occurred between December 28, 2022, and December 31, 2022. See Chris Dep. 117, 159; See Joy Dep. 142, 144-145.

³ It does not appear that Plaintiffs' demand extends to subsections (d) or (e) of Document Request No. 12. However, to the extent necessary, Defendants continue to maintain their previous objections that requests for information related to "any resident", not Sierra, are not permitted as the information of other residents is protected by state and federal laws, and Defendants reserve the right to supplement this argument if/when needed. See Hollman v. Wolfson, 384 S.C. 571, 580, 683 S.E.2d 495, 500 (2009) ("[N]o protective device can limit the invasion of the nonparty patients' privacy once contact with them is permitted. The nonparty patients have a valid and legitimate

“Individual Defendants”), surrender their personal cell phones “to their counsel” for a *carte blanche* “forensic collection and review of . . . text messages and other [responsive] communications[.]” on the grounds that Plaintiffs do not “trust” that Defendants have produced all information and documents responsive to Document Request No. 12.⁴ See Pl. Mot 6.

DOCUMENT REQUEST NO. 12 & SUPPLEMENTAL DISCOVERY

On January 11, 2024, Defendants served their responses to Plaintiffs’ First Set of Interrogatories and Document Requests, including Document Request No. 12, which sought the following:

Request No. 12: *All communications (e.g., letters, emails, text messages, direct messages, social media messages, etc.) relating to:*

- a. *Sierra,*
- b. *Joy,*
- c. *Chris,*
- d. *Reports of abuse, neglect, or injury of any resident of Thistle CTH II.*
- e. *Reports of abuse, neglect, or injury of any resident in a Community Options’ facility or home.*

On August 30, 2024, Defendants served Plaintiffs with Defendants Supplemental Answers to Plaintiffs’ First Set of Interrogatories and Document Requests, producing approximately 2,633 pages of additional documents. While Defendants did not specifically supplement their Responses to Document Request No. 12 at that time, Defendants supplemented their Answers with the following responsive information:

Interrogatory No. 7: *State all your telephone numbers (including cell phones), email addresses, and messaging application handles (e.g., Snapchat, Telegram, etc.). Your response to the request for telephone numbers should include a statement of the carrier. Your response to the request for messaging application handles should include a statement of the service or application.*

SUPPLEMENTAL ANSWER:

Subject to the foregoing, Community Options identifies the following:

expectation that their medical information will remain confidential which outweighs respondents’ intent to use this personal information to buttress their claims Both the State and Federal government have recognized the importance of the privacy rights of patients[.]”); see also 42 U.S.C.A. § 1320d-6 (prohibiting the disclosure of individually identifiable health information as defined in the HIPAA privacy regulation without authorization); S.C. Code Ann. § 44-22-100(B)(2) (prohibiting the disclosure of records which are prohibited or regulated by federal law).

⁴ Defendants also filed a Motion for Protective Order pursuant to Rule 26, SCRCR, which is pending.

Telephone Number: (843) 879-3270
Carrier: Verizon
Email Address: Alan.Rose@comop.org

STUCKEY SUPPLEMENTAL ANSWER:

Subject to the foregoing, and upon information and belief, Stuckey's telephone number is (843) 345-3927, and her email address is astuckey1966@gmail.com. Stuckey objects to providing her cellphone carrier as she shares her plan with other individuals not affiliated with Community Options.

ANDERSON SUPPLEMENTAL ANSWER:

Subject to the foregoing, and upon information and belief, Anderson's telephone number is (843) 224-6932, her carrier is T-Mobile, and her email address is shirleywise1958@yahoo.com.

MANIGAULT SUPPLEMENTAL ANSWER:

Subject to the foregoing, and upon information and belief, Manigault's telephone number is (843) 303-4292, her carrier is T-Mobile, and her email address is willa.bmanigault@yahoo.com.

Interrogatory No. 8: State your username for all social media accounts. Your response should include the username or account handle, the platform, and the approximate date the account was created.

SUPPLEMENTAL ANSWER:

Subject to the foregoing, Community Options identifies the following:

- a. Facebook: Community Options, Inc.
- b. Twitter: @coinational
- c. YouTube: @CommunityOptions
- d. Instagram: communityoptions
- e. LinkedIn: Community Options, Inc.

STUCKEY SUPPLEMENTAL ANSWER:

Subject to the foregoing, and upon information and belief, Stuckey's Facebook username is angela.stuckey.399.

ANDERSON SUPPLEMENTAL ANSWER:

Subject to the foregoing, and upon information and belief, Anderson's Facebook username is shirley.anderson.718689.

MANIGAULT SUPPLEMENTAL ANSWER:

Subject to the foregoing, and upon information and belief, Manigault's Facebook username is willa.manigault, and her Instagram username is willamanigault.

Interrogatory No. 23: State with specificity whether you ever witnessed bruising, bleeding, or any type of physical injury on Sierra and, if so, describe the time, date, circumstances, and any persons present who you believe also witnessed what you saw.

ANDERSON SUPPLEMENTAL ANSWER:

Anderson took photos which are produced herewith.

On September 18, 2024, Defendants served their Second Supplemental Answers to Plaintiffs' First of Interrogatories and Document Requests, producing another 78 pages of documents, along with the additional supplemental Answers:

Interrogatory No. 3: Set forth a list of photographs, plats, sketches, or other prepared documents in possession of the party that relate to the claim or defense in the case.

SECOND SUPPLEMENTAL ANSWER:

Community Options reasserts its objections and believes it has adequately detailed the basis for same. Further, Community Options has identified all known responsive information that is not protected by attorney-client privilege. Subject to the foregoing, Community Options identifies the following additional documents:

- a. Emails between Community Options and Plaintiffs (Phillips Emails_0001-0076)
- b. Text (M)essages between Manigault and Carolyn White on December 31, 2023, and January 25, 2023 (Phillips_Manigault Text Msgs_0001-0002)

MANIGAULT SECOND SUPPLEMENTAL ANSWER:

See text messages between Manigault and Carolyn White regarding Sierra on December 31, 2023, and January 25, 2023 (Phillips_Manigault Text Msgs_0001-0002)

Interrogatory No. 7: State all your telephone numbers (including cell phones), email addresses, and messaging application handles (e.g., Snapchat, Telegram, etc.). Your response to the request for telephone numbers should include a statement of the carrier. Your response to the request for messaging application handles should include a statement of the service or application.

STUCKEY SECOND SUPPLEMENTAL ANSWER: Stuckey's phone number is included on her son's cellular plan with AT&T.

Interrogatory No. 8: State your username for all social media accounts. Your response should include the username or account handle, the platform, and the approximate date the account was created.

STUCKEY SECOND SUPPLEMENTAL ANSWER: Stuckey believes her Facebook username is angelastuckey66.

ANDERSON SECOND SUPPLEMENTAL ANSWER: Anderson is unable to determine her Facebook username.

Interrogatory No. 9: *Identify by year, make, and model number all smart phones, tablets, and laptops you own.*

SECOND SUPPLEMENTAL ANSWER: Thistle CTH II uses Chromebooks. In 2020, Community Options issued Thistle CTH II a Chromebook with Serial No. MP1Q166Q.

STUCKEY SECOND SUPPLEMENTAL ANSWER: Stuckey's cell phone is an iPhone 12.

ANDERSON SECOND SUPPLEMENTAL ANSWER: Anderson's cell phone is a Samsung Galaxy A21.

MANIGAULT SECOND SUPPLEMENTAL ANSWER: Manigault's cell phone is a Samsung Android.

Finally, Plaintiffs deposed Individuals Defendants on May 28, 2025, and May 29, 2025.

LEGAL STANDARDS

A. Limitations on Discovery

Unless otherwise limited by order of the court, [p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action[.]” Rule 26(b)(1), SCRCP. “Although the scope of discovery is broad, requests must show a reasonable expectation of obtaining information that will aid in the dispute’s resolution.” Oncology & Hematology Assocs., 387 S.C. 380, 388, 692 S.E.2d 920, 924 (2010) (quoting In re CSX Corp., 124 S.W.3d 149, 152 (Tex. 2003)). Thus, “discovery requests must be ‘reasonably tailored’ to include only relevant matters.” Id. at 388, 692 S.E.2d at 924-25 (quoting In re CSX Corp., 124 S.W.3d 149, 152); id. (noting that the lower court “correctly identified the ‘central issue’ in the case before it” for its determination of whether discovery requests were within the parameters of Rule 26 and holding that the respondent’s discovery requests were “not remotely relevant to resolution of the issue”) (quoting In re CSX Corp., 124 S.W.3d 149, 152)); see also Hollman v. Woolfson, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009) (explaining that information sought in discovery must be “relevant and necessary” to the case). Accordingly, “the trial court must make an effort to impose reasonable discovery limits.” Oncology, 387 S.C. at 388, 692 S.E.2d at 924; see e.g., Hamm v. S.C. Pub.

Serv. Comm'n, 312 S.C. 238, 241, 439 S.E.2d 852, 854 (1994) (citations omitted) (discussing that “[w]hen the discovery process . . . become[s] abusive or create[s] a particularized harm to a litigant or third party, the Rules allow the trial judge broad latitude in limiting the scope of discovery” to protect a party or person).

In determining whether information is “relevant and necessary,” the party seeking the information must “demonstrate with specificity exactly how the lack of information will impair the presentation of the case on the merits to the point that an unjust result is real, rather than a merely possible, threat.” Hollman, 384 S.C. at 578, 683 S.E.2d at 498 (quoting Laffitte v. Bridgestone Corp., 381 S.C. 460, 476, 674 S.E.2d 154, 163 (2009)). Accordingly, the Court is required to “weigh the factors of whether the information sought is ‘relevant and necessary’ evidence against any particularized harm the opposing party may suffer.” Id.

B. Spoliation

Spoliation is the “intentional destruction, mutilation, alteration, or concealment of evidence.” Spoliation, Black’s Law Dictionary (12th ed. 2024). Spoliation refers to the “destruction or material alteration of evidence or . . . the failure to preserve property for another’s use as evidence in pending or reasonably foreseeable litigation.” See Silvestri v. Gen. Motors Corp., 271 F.3d 583, 590 (4th Cir. 2001) (citing West v. Goodyear Tire & Rubber Co., 167 F.3d 766, 779 (2d Cir. 1999)); see also Austin v. Beaufort Cnty. Sheriff’s Office, 311 S.C. 31, 35, 659 S.E.2d 122, 124 (2008) (noting that spoliation of evidence requires “a pending or potential civil claim”) (citing Hannah v. Heeter, 584 S.E.2d 560, 573 (W. Va. 2003)). South Carolina does not recognize an independent cause of action for spoliation. Cole Vision Corp. v. Hobbs, 394 S.C. 144, 154, 714 S.E.2d 537, 542 (2011). Instead, courts have discretion to sanction a party for spoliation. See e.g., Kershaw Cnty. Bd. of Educ. v. U.S. Gypsum Co., 302 S.C. 390, 395, 396 S.E.2d 369, 372 (1990) (“[T]he selection of a sanction is within the court’s discretion.”). A party can only be sanctioned for destroying evidence that it had a duty to preserve. See § 41:1. Spoliation of [E]vidence: General [C]oncept, Trial Handbook for South Carolina Lawyers (5th ed. 2025) (citing In re Krause, 367 B.R. 740, 99 A.F.T.R. 2d 2007-3098 (Bankr. D. Dan. 2007, decision aff’d, Bankr. L. Rep. (CCH) ¶ 81734, 2010-1 U.S. Tax Cas. (CCH) ¶ 50222, 105 A.F.T.R. 2d 2010-731, 2009 WL 5064348 (D. Kan. 2009), aff’d, 637 F.3d 1160, 2011-1 U.S. Tax Cas. (CCH) ¶ 50314, 107 A.F.T.R. 2d 2011-1606 (10th Cir. 2011); see

also Austin, 311 S.C. 31, 36, 659 S.E.2d 122, 124 (2008) (emphasizing that “there was no general duty to preserve evidence after the police had terminated a criminal investigation[,]” and, therefore, not every destruction of evidence constitutes actionable spoliation).

While courts have sanctioned parties who lost or destroyed evidence that they had a duty to preserve by allowing the jury to presume that said evidence would have been helpful to the other side, see Kershaw, 302 S.C. at 394, 396 S.E.2d at 372, such a sanction is only proper if the party seeking the sanction “make[s] a showing that the document or evidence might reasonably have supported whatever presumption is being requested of the fact finder,” Pringle v. SLR, Inc. of Summerton, 382 S.C. 397, 405, 675 S.E.2d 783, 787 (Ct. App. 2009). Rule 37(f), SCRCP states, “Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system.” See also Rule 37, SCRCP, advisory committee’s note to 2011 amendment (“Pursuit of electronic discovery must relate to the claims and defenses asserted in the pleadings and should serve as a means for facilitating a just and cost-effective resolution of disputes”).

ARGUMENTS

Plaintiffs’ Motion to Compel demands unlimited access to Individual Defendants’ personal cell phones to perform an inspection of their electronically stored information for an indefinite timeframe. Plaintiffs have not provided, much less established, a legal basis that would require such disclosure(s); instead, this demand is based solely on the grounds that Plaintiffs do not “trust” that Defendants, and by extension their counsel, have produced all communications related to Plaintiffs that would be responsive to Document Request No. 12. Plaintiffs are essentially accusing Individual Defendants of concealing and/or intentionally destroying relevant evidence. Accordingly, Plaintiffs’ Motion to Compel exceeds the permissible scope of discovery under Rule 26, SCRCP, and as such, should be denied.

I. A Broad Examination Of Individual Defendants’ Personal Property Is Improper.

A. No Evidence of Intentional Destruction

Plaintiffs seek an inspection of Individual Defendants' personal cell phones on the basis that Individual Defendants intentionally destroyed or failed to disclose relevant communications in discovery. See Pl. Mot. 4-6. However, there is no evidence of intentional destruction of or non-disclosure of relevant communications by Individual Defendants. In fact, the available evidence shows that Individual Defendants provided all available communications related to the parties and admitted to the deletion of other communications (which may or may not have been relevant to the issue(s) alleged in the case) prior to any anticipation of, let alone existence of, litigation. See Manigault Dep. 21-22; Stuckey Dep. 111. Plaintiffs have reframed the routine and customary deletion of text messages from a personal cell phone as the "intentional destruction" of evidence and speculated as to the existence of relevant communications on Individual Defendants' personal cell phones to justify an impermissible fishing expedition. See Wellin v. Wellin, Nos. 2:13-cv-1831-DCN, 2:14-cv-0652-DCN, 2:13-cv-3595-DCN, 2:14-cv-0579-DCN, 2014 WL 2434636, at *8 (May 28, 2014) (recognizing request to inspect cell phone as "nothing more than an impermissible fishing expedition" where the responding party previously responded that she lacked records responsive to subpoena)⁵. Plaintiffs have not made the requisite showing of intentional wrongdoing (or even negligence) by Individual Defendants with respect to the concealment or destruction of electronic communications. See Cole Vision Corp. v. Hobbs, 394 S.C. 144, 154, 714 S.E.2d 537, 542 (2011) (holding that South Carolina does not recognize a common law cause of action for intentional or negligent spoliation).

B. Plaintiffs' Demand is Based on Speculation

⁵ Plaintiffs' Motion to Compel is misleading as to the photographs of Sierra. Defendants produced photographs taken of Sierra by Anderson in discovery. Further, Defendants disclosed that Carolyn White ("White"), Anderson's supervisor, provided photographs to the Horry County Police Department ("HCPD") at their request. Anderson and White were statutorily authorized by the Omnibus Adult Protection Act to take photographs of Sierra related to the Mandatory Report. See § 43-35-30 ("A person required to report pursuant to this article . . . may take or cause to be taken color photographs of the trauma visible on the vulnerable adult who is the subject of a report. A person required to report under this chapter . . . immediately shall notify the person in charge or the designated agent of the person in charge who shall take or cause to be taken color photographs of visible trauma. . . . All photographs . . . must be provided to law enforcement or to the investigative entity upon request."). There is no testimony or evidence that Individual Defendants, or other Community Options employees, took any photographs of Sierra on their personal cell phones other than the ones taken pursuant to South Carolina law and previously produced in discovery.

Plaintiffs' suggestion that Individual Defendants have failed to disclose all accessible relevant data is based on pure speculation, and courts have consistently held that "mere skepticism that an opposing party has not produced all relevant information is not sufficient to warrant drastic electronic discovery measures." E. Bridge Lofts Prop. Owners Ass'n, Inc. v. Crum & Forster Specialty Ins. Co., No. 2:14-cv-2567-RMG, 2015 WL 12831731, at *2 (D.S.C. Jun. 18, 2015) (citing McCurdy Group, LLC v. Am. Biomedical Group, Inc., 9 Fed. Appx. 822, 831 (10th Cir. 2001); see also Downs v. Virginia Health Sys., Civ. No. 5:13cv00083, 2014 WL 12776888, at * 3 (W.D. Va. June 2, 2014) ("mere desire to check that the opposition has been forthright in its discovery responses is not a good enough reason for a court order compelling an exhaustive computer forensic examination"); Scotts Co LLC v. Liberty Mut. Ins. Co., No. 06-899, 2007 WL 1723509, at * 2 (S.D. Ohio June 17, 2007) ("Plaintiff in this case requests intrusive examination of its opponent's computer systems on the mere suspicion . . . that defendant may be withholding discoverable information. Plaintiff's speculation is, in the view of this Court, entirely insufficient. Plaintiff's few allegations of misconduct, which are adequately explained by defendant, simply do not justify Court-mandated access to defendant's information storage systems.").

C. Plaintiffs' Demand Does Not Outweigh Individual Privacy Concerns

Plaintiffs demand unlimited access to Individual Defendants' personal cell phones to perform a broad forensic examination of their electronically stored information for an indefinite timeframe. Plaintiffs' inspection will inevitably yield production of privileged and confidential information belonging to Individual Defendants including, but not limited to, personal communications with family members, friends, colleagues, providers, legal representatives, confidential and sensitive financial information, location history, and private health information protected by HIPAA. Disclosure of this type of highly sensitive and personal information would indisputably result in harm to Individual Defendants by "exposing the sum" of their private lives. See Riley v. California, 573 U.S. 373, 375 (2014) (stating that more than 90% of American adults who own cell phones keep on their person a digital record of nearly every aspect of their lives); id. at 393-94 ("The term 'cell phone' itself is misleading shorthand; many of these devices are in fact minicomputers that also have the capacity to be used as a telephone. They could just as easily be

called cameras, video players, rolodexes, calendars, tape recorders, libraries, diaries, albums, or newspapers. . . . [T]he possible intrusion on privacy is not physically limited in the same way when it comes to cell phones. The current top-selling smart phone [(in 2014)] has a standard capacity of 16 gigabytes (and is available with up to 64 gigabytes). Sixteen gigabytes translates to millions of pages of text, thousands of pictures, or hundreds of videos. Cell phones couple that capacity with the ability to store many different types of information. . . .”). Further, Plaintiffs’ inspection will likely yield production of privileged and confidential information belonging to individuals other than Individual Defendants. Hollman, 384 S.C. at 580, 683 S.E.2d at 500 (“Both the State and Federal government have recognized the importance of . . . privacy rights . . . [.]”); see 42 U.S.C.A. § 1320d-6 (prohibiting the disclosure of individually identifiable health information as defined in the HIPAA privacy regulation without authorization; S.C. Code Ann. § 44-22-100(B)(2) (prohibiting the disclosure of records which are prohibited or regulated by federal law).

Courts have denied forensic reviews of personal devices based on this threat of harm. See John B. v. Goetz, 531 F.3d 448, 459-60 (6th Cir. 2008) (finding that the devices plaintiff sought forensic review of would almost certainly contain personal information and that the district court failed to account properly for significant privacy and confidentiality concerns when ordering forensic review); E. Bridge Lofts Prop. Owners Ass’n, Inc., No. 2015 WL 12831731, at *2 (relying on John B. to prevent the forensic examination of the defendant’s devices); Cross by and Through Steele v. XPO Express, Inc., No. 4:15-cv-2481-BHH, 2016 WL 11519221, at *6 (D.S.C. May 3, 2016) (same); Fed. R. Civ. P. 34(a) advisory committee’s note to 2006 amendment (“Inspection or testing of certain types of electronically stored information or of a responding party’s electronic information system may raise issues of confidentiality or privacy. The addition of testing and sampling to Rule 34(a) with regard to documents and electronically stored information is not meant to create a routine right of direct access to a party’s electronic information system Courts should guard against undue intrusiveness resulting from inspecting or testing such systems.”). The amendment(s) to Rule 34, SCRCP, concerning electronic discovery are substantially similar to the corresponding provisions in the Fed. R. Civ. P. See Rule 34, SCRCP advisory committee’s note to 2011 amendment; see also Roberts v. Peterson, 292 S.C. 149, 152, 355 S.E.2d 280, 281 (Ct. App. 1987) (where a state rule has

adopted the language of a federal rule, federal cases interpreting the federal rules are persuasive in the absence of prior state law).

As such, “the utility of permitting a forensic examination of a personal cell phone must be weighed against inherent privacy concerns.” Tingle v. Hebert, No. 15-626-JWD-EWD, 2018 WL 1726667, at *8 (M.D. L.A. Apr. 10, 2018) (quoting John Crane Grp. Corp. v. Energy Devices of Tex., Inc., No. 6:14-cv-178, 2015 WL 11089486, at *3 (E.D. Tex. Feb. 2, 2014) (interpreting the Federal Rules of Civil Procedure which are substantially similar in nature to the SCRCP)). The South Carolina Supreme Court has recognized that privacy invasions constitute particularized harm justifying protection from discovery. See Hollman, 384 S.C. at 578, 683 S.E.2d at 489-99 (“As to the requirement of particularized harm, no protective device can limit the invasion of the nonparty patients' privacy . . . Both the State and Federal government have recognized the importance of . . . privacy rights . . .[.]”).

In considering these competing factors, Individual Defendants' privacy interests clearly outweigh the need for an exhaustive inspection of their personal cell phones. By Plaintiffs' own admission, the purpose of the inspection is to obtain any concealed or destroyed electronic communications sent to or received by Individual Defendants with relevance to the case. See Pl. Mot. 6, 9. Yet, the demanded forensic examination would require unfettered access to the entirety of Individual Defendants' personal cell phones without any justification of the need for the same. Plaintiffs have failed to offer any credible explanation that would weigh in favor of an extensive review of voluminous, private and confidential information belonging to Individual Defendants to ascertain the mere existence of suspected concealed or destroyed electronic communications, which are, by definition, irretrievable.

The demanded inspection is an unnecessary and intrusive discovery tactic which raises significant privacy and confidentiality concerns for Individual Defendants and, as a result, should be denied as it exceeds the scope of permissible discovery. See e.g., E. Bridge Lofts Prop. Owners Ass'n, Inc., 2015 WL 12831731 at *2 (quoting John B., 531 F.3d at 460 (“civil litigation should not be approached as if information systems were crimes scenes that justify forensic investigation at every opportunity to identify and preserve every detail.”)).

D. No Attempts Have Been Made to Obtain the Information by Less Intrusive Means

Plaintiffs have not attempted to obtain information regarding Individual Defendants' cell phone usage through any less intrusive means, such as issuing subpoenas for Individual Defendants' cell phone records. Defendants produced the cell phone numbers and carriers of Individual Defendants in written discovery, and Plaintiffs' counsel asked each Individual Defendant for the same information during their depositions but, to date, have not issued any subpoenas for that information. Defendants do not dispute that Anderson called Stuckey and Carolyn White ("White"), her supervisors, regarding Sierra's allegations, and that Anderson texted pictures of Sierra, taken at the direction of White, to Stuckey and White. Those photographs were produced in discovery.⁶ Plaintiffs have absolutely no evidence to support that Individual Defendants routinely texted about Sierra, Joy and/or Chris that would justify such an invasion of personal privacy. Instead, Individual Defendants testified they would use their phones to communicate generally with co-workers about work schedules and other day-to-day work matters and that they frequently made phone calls, with both their personal cell phones and the Thistle house phone, not text messages, to do so. See e.g. Stuckey Dep. 113, 151-152; Anderson Dep. 87-88, Manigault Dep. 18-19.

As to Manigault individually, there is no evidence that anyone texted Manigault at any time related to Sierra, Joy and/or Chris. See e.g. Manigault Dep. 21 ("I don't think I've ever texted Ms. Stuckey."). Manigault testified that she reviewed her phone for any information related to Sierra and produced to her counsel the only text messages she could locate. Manigault Dep. 21-22. Finally, the group text referenced by Plaintiffs in Plaintiffs' Motion to Compel did not include Manigault. Accordingly, there is no reasonable basis to invade Manigault's personal privacy by seizing her personal cell phone when the only evidence is that she has produced all responsive information in her possession.

II. Plaintiffs' Demand For A Forensic Examination Of Individual Defendants' Personal Cell Phones Is Unduly Burdensome.

⁶ They were produced with Defendants' initial responses on August 27, 2024, and Individual Defendants were questioned regarding the produced photographs in their respective depositions.

Plaintiffs' Motion to Compel fails to state the specific time frame of information that would be subject to a forensic review and fails to state any limitations regarding the scope of the review. Cell phones are "mini-computers" that contain multiple applications, including but not limited to, text messages, email server(s), call history, photos, social media, browsers, calendars, etc. See Riley, 573 U.S. at 375 (explaining that cell phones keep a digital record of nearly every aspect of people's lives). Plaintiffs' demand for a forensic review of Individual Defendants' "phones" is, in fact, a demand for an exhaustive dissection of their day-to-day lives without limitation. While discovery is broad, there are limits. Oncology & Hematology Assocs. of S.C. LLC v., 387 S.C. at 388, 692 S.E.2d at 924.

Demanding that Individual Defendants surrender their personal phone for an unknown amount of time is not a small request or minor imposition. Personal cell phones are lifelines for most people, including Individual Defendants, and managing the logistics of work, personal activities, and family obligations without them is nearly impossible. Individual Defendants would be required to (1) take time off work to go to a location where the phone would be accessed and uploaded, (2) wait for an indeterminate amount of time for the upload to occur, (3) be unable to communicate with anyone during that time related to work, family concerns, or even emergencies, and (4) potentially be required to leave the phone overnight and repeat (1) through (3) again the following day until the upload is complete. Finally, no one can guarantee that a forensic review would not otherwise damage their phone or the information contained therein.

Further, conducting forensic examinations of Individual Defendants' personal cell phones would unduly burden Defendants. Electronic discovery, especially forensic data collection due to its complexity, is highly expensive. See Bridge Lofts Prop. Owners Ass'n, 2015 WL 12831731, at *2 ("In light of the expense and difficulty of forensic examinations, 'courts must consider the significant interests implicated by forensic imaging before ordering such procedures.'" (quoting John B., 531 F.3d 448, 460)); The Sedona Principles: Best Practices, Recommendations & Principles for Addressing Electronic Production, Third Edition, 69, 141 (2018) (stating forensic data collection involves additional cost and burden and, "costs cannot be calculated solely in terms of the expense of computer technicians to retrieve the ESI, but must factor in other litigation costs, including the accessibility of the ESI, the interruption and disruption of

routine business processes and IG practices, and the costs of reviewing the ESI. These burdens on information technology personnel and the resources required to review ESI for relevance, privilege, confidentiality, and privacy should be considered in any calculus of whether to allow discovery . . . [i]n addition[to] non-monetary costs (such as the invasion of privacy rights, risks to business and legal confidences, and risks to privileges) . . .”).

Therefore, Plaintiffs’ request is overly broad in scope and time, and therefore, it is unduly burdensome for Defendants to incur the considerable time and expense that would be required to conduct the forensic review demanded. Further, a *carte blanche*, unlimited forensic review of Individual Defendants’ personal cell phones—their “minicomputers” containing personal information regarding all aspects of their lives is unduly burdensome and beyond the permissible scope of Rule 26, SCRC.

III. Plaintiffs’ Cannot Demonstrate The Necessary “Elements” To Support A Spoliation Sanction Against Defendants.

Plaintiffs’ Motion to Compel requests that “if the messages from the relevant period cannot be retrieved for review, then the court should impose a spoliation sanction as a penalty for Defendants admitted destruction of Electronically Stored Information (ESI)”. See Pl’s Mot. 6. Plaintiffs have offered no evidence that Individual Defendants had responsive information on their personal devices at the time the litigation commenced and, therefore, cannot claim that such information was deleted or destroyed during the course of the litigation or that such deletion was improper. The fact that an individual may get a new device, delete information from a device, or accidentally damage a device in no way supports in the form of a spoliation charge to a jury in this case. Plaintiffs point to deposition testimony as purported evidence of destruction of evidence without any proof that any such evidence actually existed *at the time the litigation was filed*. Instead, the deposition testimony shows that Individual Defendants routinely deleted information from their phones as a matter of personal practice. See Stuckey Dep. 111-12. Such practices do not rise to the level of conduct that should be sanctioned. See Rule 37(f) (“a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system.”).

Upon information and belief, Plaintiffs did not provide a preservation of evidence notice or other documentation that purports to have put Individual Defendants on notice to preserve certain content on their personal devices prior to litigation that has now somehow been violated. See Kershaw Cnty. Bd. of Educ. v. U.S. Gypsum Co., 302 S.C. 390, 394-95, 396 S.E.2d 369, 372 (1990) (finding trial court exercised appropriate discretion in issuing jury instruction related to lost or destroyed evidence where defendant violated an existing court order). Here, Plaintiffs cannot meet their significant burden to establish that Individual Defendants were “intentional, reckless, or negligent” in their handling of *their own personal property* over the course of this litigation.

Further, much of the information Plaintiff seeks, *i.e.*, text messages with photographs taken of Sierra on January 2, 2023, have been produced and testimony has been proffered as to who took the photographs and who they were sent to as part of the Mandatory Report. It is reasonable, and frankly appropriate and respectful, that Anderson, Stuckey, and any Community Options employee who received the photographs related to the Mandatory Report and investigation would then delete those photographs from all devices, after they were preserved in another format, because they depict Sierra’s private parts. There is no evidence or testimony that any Individual Defendant was in possession of any text, photograph, or other communication related to Sierra responsive to Request No. 12 at the time the litigation commenced, other than the text messages produced by Manigault.

In sum, Plaintiffs’ Motion to Compel is a fishing expedition for communications they believe should exist in hopes of bolstering their case. Further, if the requested forensic review is not successful in producing what Plaintiffs’ hope for, they seek sanctions in the form of a spoliation instruction. See Pringle v. SLR, Inc. of Summerton, 382 S.C. 397, 675 S.E.2d 783 (Ct. App. 2009) (“[A]s an initial matter the party seeking the inference must be prepared to make a showing that the document or evidence might reasonably have supported whatever presumption is being requested of the fact finder.”). If a forensic review is ordered and no responsive information is located on Individual Defendants’ devices, Plaintiffs are asking this court to assume that responsive information existed and was intentionally destroyed and seek sanctions. However,

such an assumption ignores any consideration that if and/or when no responsive information is found, Defendants were telling the truth in their discovery responses.

Therefore, Plaintiffs cannot establish the requirements for a Rule 37, SCRPC, sanction in the form of a spoliation charge in this case.

CONCLUSION

Based on the foregoing, Defendants respectfully request that the Court **DENY** Plaintiffs' Motion to Compel.

HALL BOOTH SMITH, P.C.

/s/ Ashley S. Heslop

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Counsel for Defendants

Ashley Heslop

From: Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <dvanslambrooksc@sccourts.org>
Sent: Tuesday, March 3, 2026 9:24 AM
To: Ashley Heslop
Cc: Van Slambrook, Dale E. Law Clerk (David Crump)
Subject: RE: Phillips v Community Options, Inc. - 2023-CP-08-03019 [HBS-DMS.FID1875022]

Thank you.

**Beth Atkins, Administrative Assistant to
The Honorable Dale E. Van Slambrook
300-B California Avenue
Moncks Corner, SC 29461
Phone 843.719.4435**

From: Ashley Heslop <AHeslop@hallboothsmith.com>
Sent: Monday, March 2, 2026 6:42 PM
To: Van Slambrook, Dale E. Law Clerk (David Crump) <dvanslambrooklc@sccourts.org>; cpk@chriskenny.law
Cc: Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <dvanslambrooksc@sccourts.org>; Elizabeth Pate
<epate@hallboothsmith.com>; Caroline Buchanan <cbuchanan@hallboothsmith.com>
Subject: RE: Phillips v Community Options, Inc. - 2023-CP-08-03019 [HBS-DMS.FID1875022]

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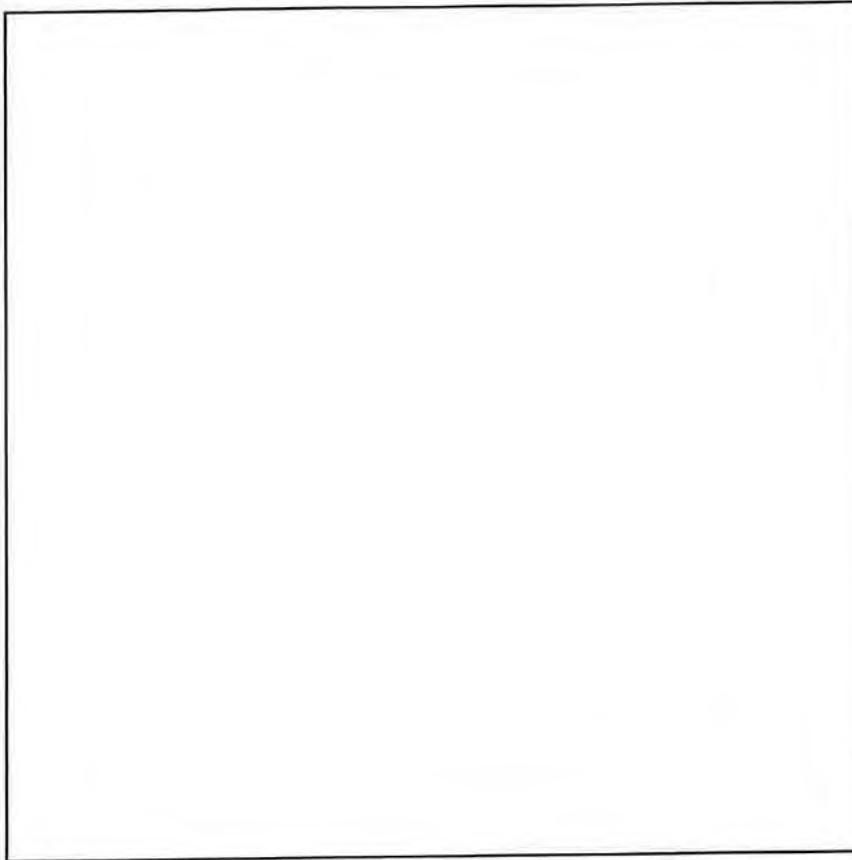
Dear Judge Van Slambrook,
Per your instruction, we have e-filed the attached proposed Order Denying Plaintiffs' Motion to Compel. A copy is attached here for your convenience. Please let us know if any additional information is needed at this time.

Thank you,
Ashley Heslop

Ashley Heslop

Attorney at Law | Hall Booth Smith, P.C.

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From: Ashley Heslop

Sent: Wednesday, February 18, 2026 4:55 PM

To: 'Van Slambrook, Dale E. Law Clerk (David Crump)' <dvanslambrooklc@sccourts.org>; cpk@chriskenny.law

Cc: Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <dvanslambrooksc@sccourts.org>; Elizabeth Pate <epate@hallboothsmith.com>; Caroline Buchanan <cbuchanan@hallboothsmith.com>

Subject: RE: Phillips v Community Options, Inc. - 2023-CP-08-03019 [HBS-DMS.FID1875022]

Thank you, Mr. Crump. We will prepare and submit a proposed Order as instructed below. Please let us know if there is a particular deadline that we need to be mindful of for submission of the proposed Order. Otherwise, we will plan to proceed with the customary 10-day deadline, making the proposed Order due on/before Monday, March 2, 2026.

Thank you,
Ashley Heslop

From: Van Slambrook, Dale E. Law Clerk (David Crump) <dvanslambrooklc@sccourts.org>

Sent: Wednesday, February 18, 2026 3:39 PM

To: cpk@chriskenny.law; Ashley Heslop <AHeslop@hallboothsmith.com>

Cc: Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <dvanslambrooksc@sccourts.org>

Subject: Phillips v Community Options, Inc. - 2023-CP-08-03019

Judge Van Slambrook asks that Defendant submit a proposed Order denying Plaintiff's Motion to Compel based on the January 5, 2026 hearing. Please include all appropriate findings of fact and conclusions of law.

Thanks

Very Respectfully,

David Crump

Law Clerk for The Honorable Dale E. Van Slambrook
300-B California Avenue
Moncks Corner, SC 29461
Phone 843.719.4435

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**Ashley Heslop**

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**From:** Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <dvanlambrooksc@sccourts.org>  
**Sent:** Thursday, March 5, 2026 4:33 PM  
**To:** Ashley Heslop; cpk@chriskenny.law  
**Cc:** Van Slambrook, Dale E. Law Clerk (David Crump)  
**Subject:** RE: Phillips v Community Options, Inc. - 2023-CP-08-03019 [HBS-DMS.FID1875022]

Mr. Kenney: Judge Van Slambrook has requested that you prepare an Order that grants the Motion to Compel. The spoliation issue does not need to be addressed in the proposed Order.

**Beth Atkins, Administrative Assistant to  
The Honorable Dale E. Van Slambrook  
300-B California Avenue  
Moncks Corner, SC 29461  
Phone 843.719.4435**

**From:** Van Slambrook, Dale E. Secretary (Elizabeth Atkins)  
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**Cc:** Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <dvanlambrooksc@sccourts.org>; Elizabeth Pate <epate@hallboothsmith.com>; Caroline Buchanan <cbuchanan@hallboothsmith.com>  
**Subject:** RE: Phillips v Community Options, Inc. - 2023-CP-08-03019 [HBS-DMS.FID1875022]

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Dear Judge Van Slambrook,  
Per your instruction, we have e-filed the attached proposed Order Denying Plaintiffs' Motion to Compel. A copy is attached here for your convenience. Please let us know if any additional information is needed at this time.

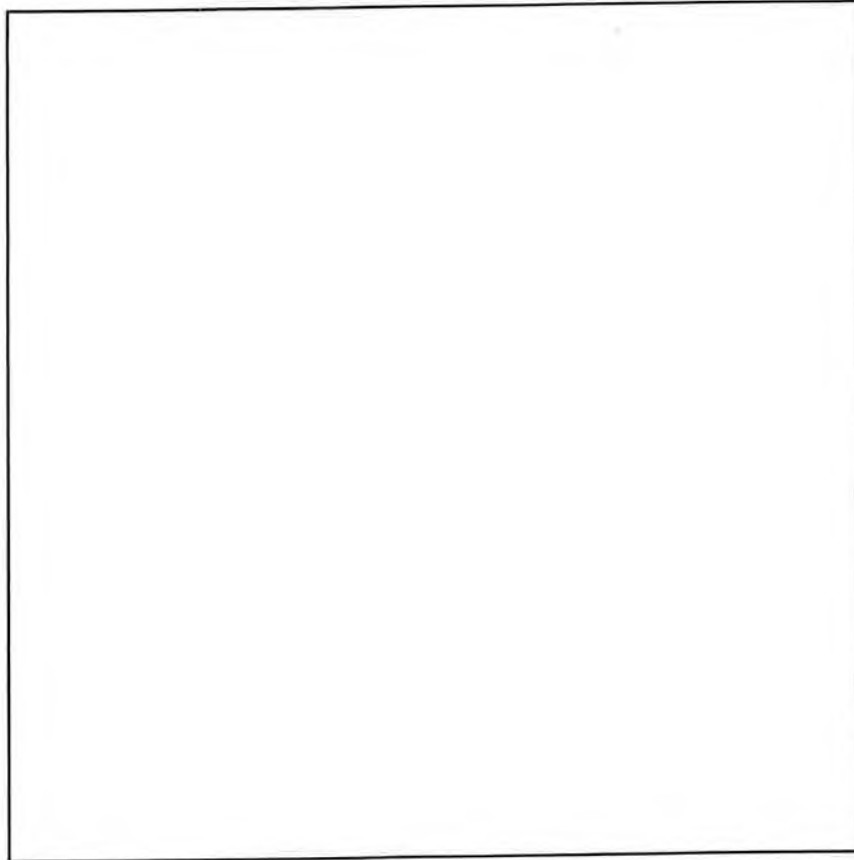
Thank you,  
Ashley Heslop

**Ashley Heslop**

Attorney at Law | Hall Booth Smith, P.C.

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**Cc:** Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <[dvanslambrooksc@sccourts.org](mailto:dvanslambrooksc@sccourts.org)>; Elizabeth Pate





<[epate@hallboothsmith.com](mailto:epate@hallboothsmith.com)>; Caroline Buchanan <[cbuchanan@hallboothsmith.com](mailto:cbuchanan@hallboothsmith.com)>  
**Subject:** RE: Phillips v Community Options, Inc. - 2023-CP-08-03019 [HBS-DMS.FID1875022]

Thank you, Mr. Crump. We will prepare and submit a proposed Order as instructed below. Please let us know if there is a particular deadline that we need to be mindful of for submission of the proposed Order. Otherwise, we will plan to proceed with the customary 10-day deadline, making the proposed Order due on/before Monday, March 2, 2026.

Thank you,  
 Ashley Heslop

**From:** Van Slambrook, Dale E. Law Clerk (David Crump) <[dvanlambrooklc@sccourts.org](mailto:dvanlambrooklc@sccourts.org)>  
**Sent:** Wednesday, February 18, 2026 3:39 PM  
**To:** [cpk@chriskenny.law](mailto:cpk@chriskenny.law); Ashley Heslop <[AHeslop@hallboothsmith.com](mailto:AHeslop@hallboothsmith.com)>  
**Cc:** Van Slambrook, Dale E. Secretary (Elizabeth Atkins) <[dvanlambrooksc@sccourts.org](mailto:dvanlambrooksc@sccourts.org)>  
**Subject:** Phillips v Community Options, Inc. - 2023-CP-08-03019

Judge Van Slambrook asks that Defendant submit a proposed Order denying Plaintiff's Motion to Compel based on the January 5, 2026 hearing. Please include all appropriate findings of fact and conclusions of law.

Thanks

Very Respectfully,

**David Crump**  
 Law Clerk for The Honorable Dale E. Van Slambrook  
 300-B California Avenue  
 Moncks Corner, SC 29461  
 Phone 843.719.4435

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Ashley Heslop

From: Chris Kenney <cpk@chriskenny.law>
Sent: Monday, March 16, 2026 1:39 PM
To: 'Van Slambrook, Dale E. Secretary (Elizabeth Atkins)'; Van Slambrook, Dale E. Law Clerk (David Crump)
Cc: Ashley Heslop; Elizabeth Pate; Caroline Buchanan; Gedney Howe IV; 'Michael Monastra'; Erica Burian; Lindsey Dupuy
Subject: Phillips, et al. v. Community Options, Inc. et al., 2023-CP-08-03019: PL's proposed order granting motion to compel Request No. 12
Attachments: PROPOSED order granting PLs' MTC RFP No. 12 - Phillips v. Community Options.docx
Follow Up Flag: Follow up
Flag Status: Completed

Judge Van Slambrook,
Pursuant to Your Honor's request, attached please find a Word version of Plaintiffs' proposed order granting the motion to compel document Request No. 12. This proposal has also been submitted via Your Honor's electronic filing queue.

Please let me know if the Court requires anything further concerning this matter.

Thank you,
Chris Kenney

Christopher P. Kenney
CHRIS KENNEY LAW
Post Office Box 1377
NEW PHYSICAL ADDRESS: 2191 Pickens St., Suite 304 (29201)
Columbia, South Carolina 29202
803-546-3695
cpk@chriskenny.law

Please note our new physical address at the BullStreet District and update your records accordingly. Thank you.

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STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

)
)
)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Joy D. Phillips individually and
as guardian of Sierra A. Phillips,
and James C. Phillips,

Plaintiffs,

v.

Community Options, Inc.,
Angela Stuckey, Shirley Anderson,
and Willa Manigault,

Defendants.

C/A No.: 2023-CP-08-03019

**Memorandum of law in Opposition to Defendants’ Motion to Reconsider March 25, 2026,
Order Granting Plaintiffs’ Motion to Compel Document Request No. 12**

On March 25, 2026, the Court filed an Order Granting Plaintiffs’ Motion to Compel Document Request No. 12 (the “Order”), which imposed a discovery protocol for the collection, review, and production of text messages from Defendants Angela Stuckey, Shirley Anderson, and Willa Manigault. On April 6, 2026, the individual Defendants and Defendant Community Options, Inc. moved to alter or amend the Order under Rule 59(e), SCRCP (“Defs’ Mot. Recon.”).

Rule 59(e) contemplates two circumstances for changing an order. First, “[a] party may wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it.” Elam v. S.C. Dep’t of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). Second, “[a] party must file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.” This motion presents neither circumstance.

The Defendants' motion is duplicative of arguments already raised and rejected. Moreover, it makes a series of demonstrable false claims so entirely untethered from the record in this case or the Order from which they seek reconsideration that Plaintiffs Joy D. Phillips and James C. Phillips respectfully request that the Court to deny the motion and award attorneys' fees and costs under Rule 11(a), SCRCP. The Defendants' assertions in the motion are not merely wrong, they are so clearly false that the motion appears calculated for delay or an attempt to confuse the issues.

This memorandum first responds to the assertions made by the Defendants as outlined by the headings in the motion before turning to the Rule 11(a) issue.

I. There are no factual errors or mischaracterizations.

The Defendants complain that the Order states the document labeled Phillips_Manigault Text Msgs_0001-02 is the sole text message that has been produced and that it is not clear who it was sent to or when. See Defs' Mot. Recon., 5. The Defendants claim this is "false." Id.

Attached here as **Exhibit A** is the document labeled Phillips_Manigault Text Msgs_0001-02. As is clear from the document, it is not the original text thread but has been manipulated and screen-captured in some manner to remove any indicia of the date, time, or persons involved. This is not an appropriate document production, and it raises more questions than it answers.

The Defendants appear to take issue with the contention that this is the sole text message that has been produced. To be clear: ***this is the sole text message that has been produced.***

The Defendants also claim:

Further, on August 30, 2024, Defendants served Plaintiffs with Defendants' Supplemental Answers to Plaintiffs' First Set of Interrogatories and Document Requests, specifically identifying again the photographs taken by Anderson (previously produced on August 27, 2024), and as requested by Plaintiffs' counsel, a Verification of [Defendants'] Answers and First Supplemental Answers to Plaintiffs' First Set of Interrogatories. Finally, Anderson and Manigault were deposed on May 28, 2025, and May 29, 2025,

respectively, and both were questioned extensively about the subject photographs and text messages.

Defs' Mot. Recon., 6. This apropos of nothing. It is not clear what the Defendants are complaining about here or what they contend the above-quoted assertion demonstrates concerning the text messages responsive to Request No. 12.

The Court made the appropriate observation, backed by record evidence, that the individual Defendants testified that they texted photos of Sierra's bottom with red markings on the critical date in question. See Order, 4 (detailing testimony). During the January 5, 2026, hearing on the motion, the Court's concern over the Defendants' failure to produce these messages was plain:

16 THE COURT: Well, you all assert -- and your
17 client asserts -- that there was no text messages
18 accompanying the photographs, but there's no proof
19 of that, and there's nothing that can be proven
20 without a look at the phones. And it may not be
21 available ever if it's been disposed of or
22 successfully deleted.

Hr'g Tr. 16 (filed March 16, 2026). The Court is correct: the Defendants must *look* for the evidence that has been requested, particularly since the Phillips have demonstrated messages exist. But the Defendants' lawyers haven't looked, and they don't want to look, hence this motion to reconsider.

II. There are no "material errors" concerning the Order's conclusions of law.

The Defendants offer a litany of complaints under four subheadings that they maintain are errors of law. They are not.

A. Complaint Number One.

The Defendants complain: “Not only does [the Order] assume there are text messages, but also, it concludes, without any factual support or evidence, that the text messages are responsive and relevant.” Defs’ Mot. Recon., 6. This is a frivolous assertion.

The individual Defendants *testified* that they sent text messages with photographs of Sierra when the abuse was reported and that they sent text messages to one another about their work. See Order, 4–5, 7–8. Furthermore, the Phillips produced a text message that Stuckey sent to her supervisor (and mistakenly included Joy Phillips) in which Stuckey is complaining about Sierra and the other vulnerable adults in the Thistle CTH using a four-letter expletive. See Order, 8.

The Order already rejected the Defendants’ insistence of “no testimony” supporting the conclusion that text messages exist, explaining: “It is clear based on this record that responsive messages exist but that, instead of collecting the phones and reviewing the messages for responsiveness, counsel left it to the individual Defendants to decide whether they had responsive messages.” Order, 8. The Defendants’ continued perpetuation of the assertion that there might not be any responsive messages when (a) their clients testified there were, (b) the Phillips produced one such example, and (c) the Court found that (in fact) such messages exist is frivolous.

The Defendants complain about the Order’s observation that this is a case where “someone is not telling the truth...” See Defs’ Mot. Recon., 6 (citing Order, 7 (citing PLs’ MTC, 6)). That is simply a fact. The Phillips alleged the Defendants abused Sierra and blamed them; the Defendants deny this. The purpose of discovery is to prepare the case so a jury can decide. There is nothing erroneous in stating the obvious.

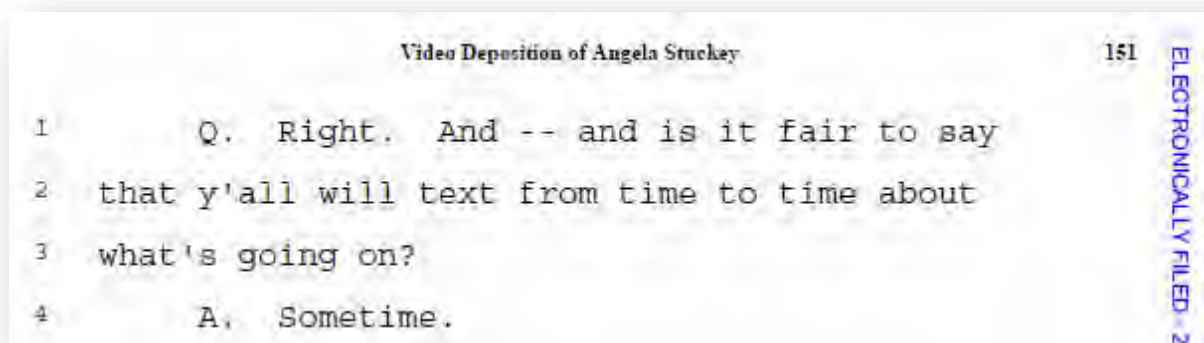
The Defendants contend that communications relating to reports of abuse, neglect, or injury of a Community Options resident are “irrelevant” or inadmissible and that such discovery is prohibited from disclosure as “protected health information.” See Defs’ Mot. Recon., 6–7.

That is incorrect. This case is about abuse, neglect, and injury of a Community Options’ resident. The text messages that the Order requires be collected, reviewed, and produced are those of the individual Defendants who worked in the home *where Sierra resided*. Obviously, such communications would be relevant and discoverable, as the Court has already found. See Order, 7. Furthermore, to the extent there are responsive messages concerning a consumer in the Thistle CTH other than Sierra, the Order already provides a procedure that allows the Defendants to “redact the names of those individuals” and mark the documents as confidential “under the existing Confidentiality Order (filed Jan. 11, 2024).” Order, 11.

B. Complaint Number Two.

The Defendants complain that the Order contains a material error in stating responsive text messages exist without any factual basis. Defs’ Mot. Recon., 7. The Defendants also contend that the individual Defendants testified “generally” about use of their person cell phones for work, not that they send text messages. Defs’ Mot. Recon., 8. These are provably false assertions.

From **Angela Stuckey’s deposition** filed with the Court:



Also, from Stuckey's deposition (p. 154) concerning photos of the red marks on Sierra's bottom:

14 Q. So explain to me: If you were at home,
15 how did she show it to you?
16 A. She sent me the picture to my phone.
17 Q. She texted it to you?
18 A. Yeah.
19 Q. Did she text you a message?
20 A. I think she just said -- well, after she
21 already had called me, I basically knew what it
22 was. So she just said -- I don't remember what
23 she said. I just -- I know she sent me the
24 pictures.

Also, from Stuckey's deposition (p. 198) concerning the expletive message to her supervisor about Sierra and the other vulnerable adults:

5 Q. All right. Next message. 12/19, couple
6 minutes -- one minute later. This is from Joy:
7 "I was just wondering why you sent me a text that
8 said" -- quote -- "'Really, she's to special.'" 125 Aug 28 2:48 PM - BERKELEY - COMMON PLEAS - CASE
9 Do you see that?
10 A. Yes.
11 Q. Do you remember getting this?
12 A. I don't remember getting that. I
13 remember Ms. Carolyn, usually -- sometime she
14 have us on a group text.

From **Shirley Anderson's deposition** (p. 50) (filed with the Court) concerning how she sent the photos she took of Sierra:

17 Q. How did you send these photos? How did
18 you send them to Angela and Ms. Carol?
19 A. A message.
20 Q. What kind of message?
21 A. To their phone.
22 Q. I understand that.
23 Was it a text message?
24 A. Yes, to their -- to their numbers
25 that -- that's how I sent it. I would send it to

Also from Anderson's deposition (p. 87), concerning communications with co-Defendants:

12 Q. Okay. You ever communicate with
13 Ms. Stuckey or Ms. Manigault via the telephone?
14 A. I've had to let them know about
15 something, if I'm not coming in or what have you.
16 That's about it. Yes.
17 Q. Okay. And do you ever text them on the
18 telephone?
19 A. To let them know something, yes.
20 Q. And you still have -- you still have
21 those messages?
22 A. Sure, if I have to let them know
23 something, yes.

From **Willa Manigault's deposition** (p. 19) (filed with the Court) concerning her communications with co-workers:

4 Q. I understand that. And do you ever text|
5 your coworkers from that phone?
6 A. Do I ever text my coworkers? Yes, back
7 and forth for our time -- for -- sometimes she
8 asks me if I'm coming. Sometimes they call --
9 they text me because I'm late.
10 Q. Okay,
11 A. Things like that.

Again, the Defendants' claims are not merely wrong, they are demonstrably false.

The Defendants complain that the Order suggested some technical assistance might be needed to assist the individual Defendants in recovering these text messages, stating:

The Phillips argue it is not surprising that these individuals failed to produce self-incriminating messages; however, the Court notes that, even if the individual Defendants acted in good faith, they may have required some technical assistance to ensure they were properly identifying potentially discoverable information for further review, but that no such assistance was given.

Order, 8. The Defendants take issue with this observation claiming, "There was no argument during the January 5, 2026 hearing, and any testimony or other evidence presented, that Individual Defendants required, much less requested, technical assistance." Defs' Mot. Recon., 8. Notably, the "critical concern" stated in the memo is not for the Defendants, but for their lawyers. See id.

The Phillips have a less charitable view than the Court because they believe the record is clear that the Defendants made no meaningful effort whatsoever to collect, review, and produce the messages that the Phillips have been requesting from day one of this case.

Two of the individual Defendants testified they replaced their phone or deleted messages *after* they were served with the Summons, Complaint, and Document Request No. 12. See Order, 6. During the January 5 hearing, Defendants' counsel sought to explain the failure to collect and produce messages by arguing "there was a gap" between the time Sierra left Community Options and when the litigation was filed and that "some of them have gotten new phones over the time frame, some of them have updated phones." Hr.'g Tr. 8–9. The Phillips disputed this, noting they were served with Request No. 12 in the same calendar year as some critical messages and pointed to testimony from Anderson claiming she "lost" messages just one month prior to her deposition and testimony from Stuckey that she deleted messages after the litigation began. See id. at 9–10. Then Defendants' counsel made the following admission during a colloquy with the Court:

5 THE COURT: But it's your client that got rid
6 of the phone or deleted the messages after having
7 received -- after having received the notice. I
8 know -- yeah, your hands are obviously tied by what
9 your clients are doing. This doesn't sound like it
10 is in their best interest. There may be nothing
11 there.

12 MS. HESLOP: I think it is a
13 mischaracterization of what their testimony was.
14 There is a difference between giving me their phone
15 and -- which they did not do. I did not say to my
16 clients when I sat down with them and met with them
17 and talked about this case and talked about the
18 allegations that Sierra made against her parents, I
19 did not sit there and say, You now have to give me
20 your phone for me to look at this. Instead, I
21 asked them, Check your phones, look for anything.

Hr'g Tr. 14 (filed Mar. 16, 2026). Thus, Defendants' counsel met with her clients, failed to collect or preserve the messages requested, allowed her clients to delete or lose this perishable evidence, and is now refusing to retrieve it.

During the January 5 hearing, the Phillips' counsel took exception to this, explaining:

2 client to turn the phone over, that is -- Judge,
3 respectfully, it is not how discovery is done.
4 And, frankly, it is an admission by Ms. Heslop that
5 maybe her office should be sanctioned in this
6 motion because they never preserved the evidence
7 that they knew we were asking for on day one.
8 If they had done that and there had been no
9 messages, we wouldn't be here, Judge. But we know
10 there are messages because these defendants
11 testified about it. And we know they deleted them
12 or got rid of them and haven't provided them to
13 their client, because that is what they told me in
14 their deposition.

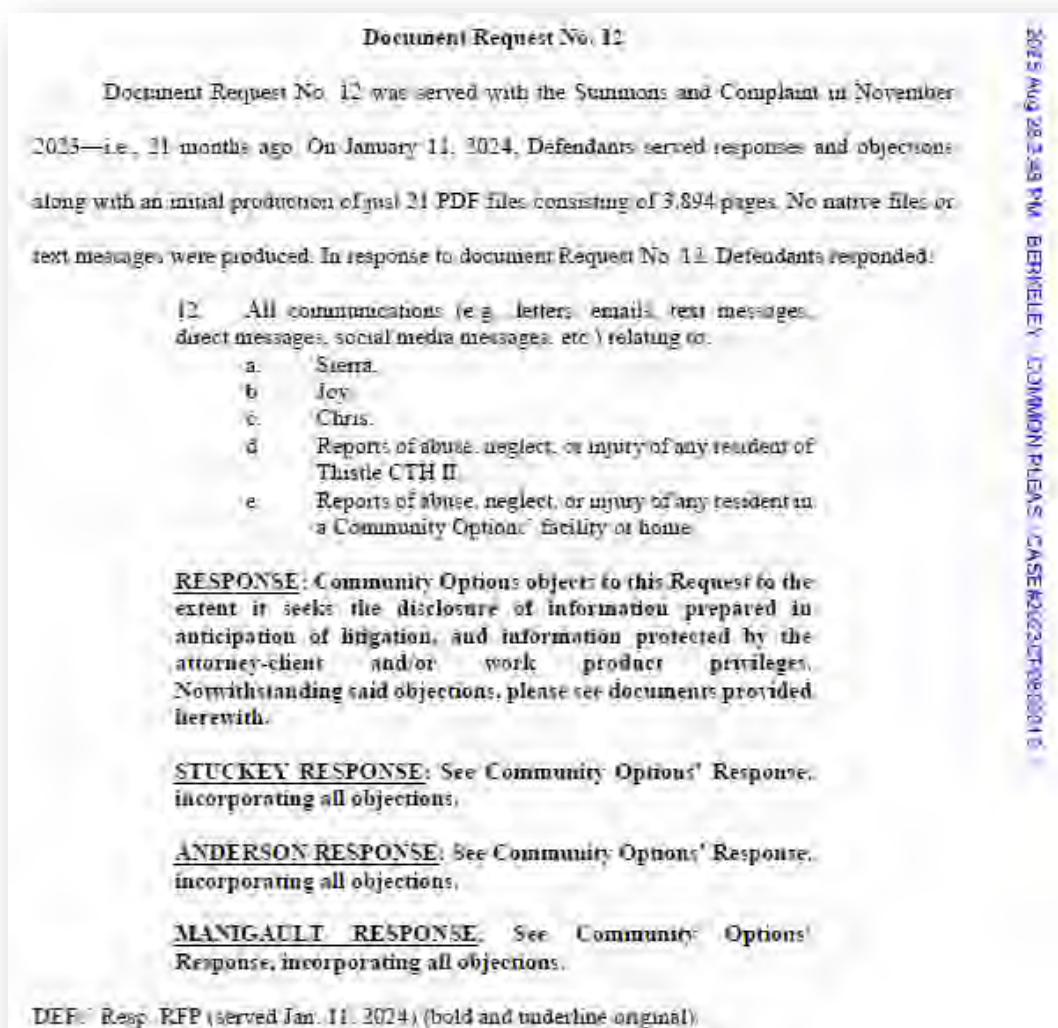
Id. at 18. Now Defendants' counsel is "critically concerned" with the ordered protocol and the suggestion that their clients need some technical assistance to retrieve the messages that should have been collected and preserved 30 months ago.

In the Phillips' view, the admitted failure to preserve perishable evidence requested by a party and shown to be relevant should be sanctionable. The Court has taken a more charitable view by allowing the Defendants to attempt to recover the messages before ruling on any spoliation. The Defendants should simply accept that grace and do the work that was ordered instead of disputing the Court's observation that some further technical assistance is required.

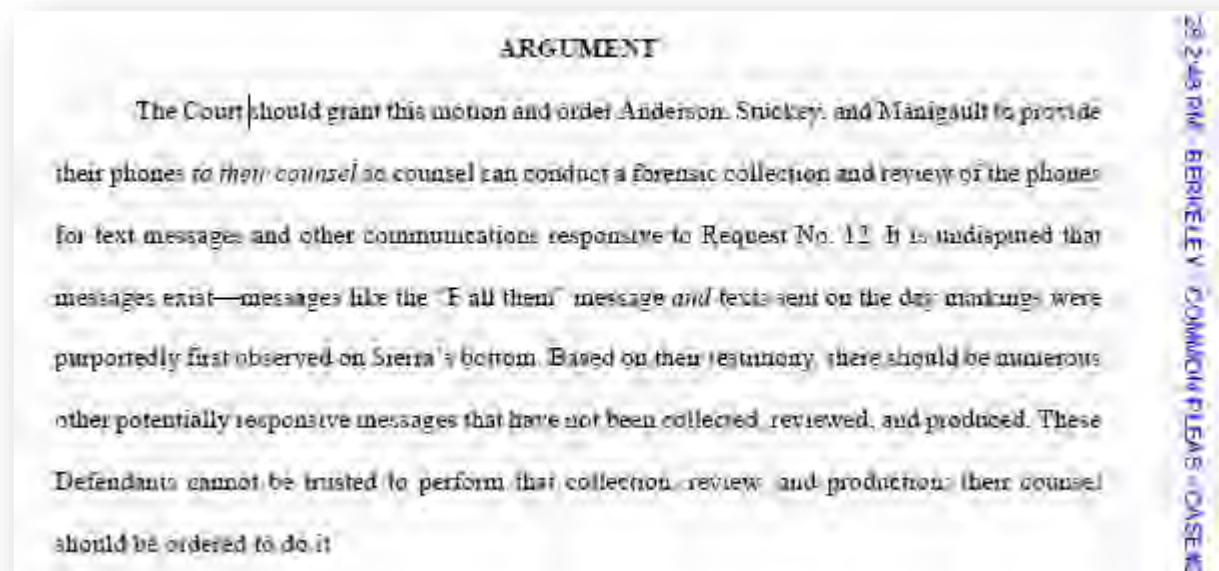
C. Complaint Number Three.

The Defendants complain that the Order “misstates the facts and misinterprets the discovery rules as well as applicable state and federal law.” See Defs’ Mot. Recon., 8 (citing footnote 4). Footnote 4 states: “Further, Plaintiffs’ counsel neither argued, nor corrected, Defendants’ understanding that only subsections (a), (b), and (c) were allegedly at issue, and subsections (d) and (e) were not discussed at the January 5, 2026 hearing by either of the parties.”

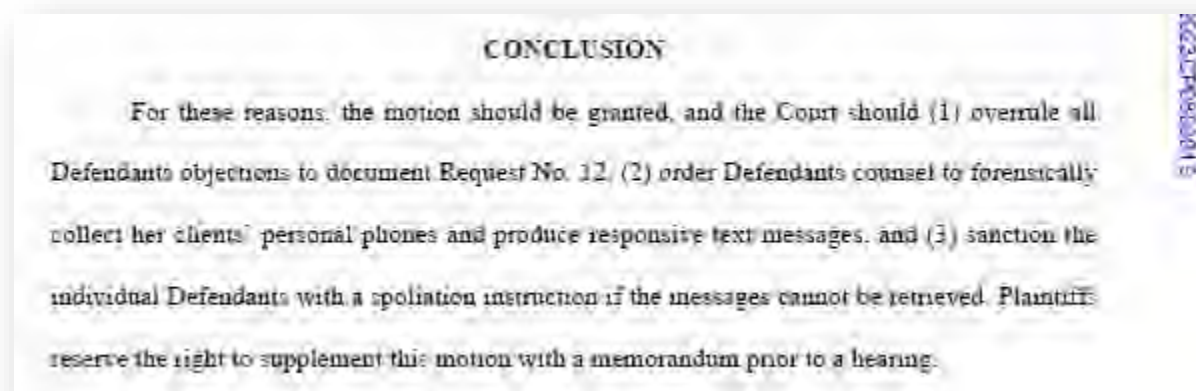
The undersigned does not know what the Defendants’ “understanding” was, but the motion was clear: it block quoted Request No. 12, *including* subparts (d) and (e), and the objections:



MTC, 3. Further, the Phillips argued the entire request should be compelled:



MTC, 6. And then the Phillips asked for the following relief:



MTC, 10. It is not clear why the Defendants (in a footnote) would now attempt to claim that some portion of Request No. 12 was not litigated. Nor do they point to any specific discovery rule that the Order misapprehends. The Defendants had more than fair notice to make whatever arguments they wanted to in support of their objections. Those arguments failed and they were properly overruled. See Order, 11.

Further, the Order already accounts for any legitimate concern over messages that might relate to one of the other three Thistle CTH residents by permitting redaction of those individuals' names and allowing the document to be marked "confidential" under the Consent Confidentiality Order that the parties *jointly* moved the Court to enter for the express purpose of facilitating the disclosure of documents with protected health information (PHI) protected by the Health Insurance Portability and Accountability Act of 1996, as amended (HIPAA), and related regulations. See Consent Conf. Order, 2 (filed Jan. 11, 2026).

D. Complaint Number Four.

The Defendants complain that the Order "contains factual errors and conclusions on matters that the Court expressly declined to rule upon." Defs' Mot. Recon., 8–9. Specifically, the Defendants claim the Order should not have included page 10. See id.

First, the motion was a motion to compel and "for a spoliation instruction." MTC, 1. The email direction from Chambers stated, "[t]he spoliation issue does not need to be addressed in the proposed Order." The Order filed by the Court states:

Fourth, while the Court is reserving any ruling on the question of spoliation or sanctions, it is mindful that litigants have duty to ensure perishable evidence is not destroyed during the pendency of a lawsuit. The duty to preserve material evidence attaches when "a party reasonably should know that the evidence may be relevant to anticipated litigation." *Silvestri v. Genl. Motors Corp.*, 271 F.3d 583, 590–591 (4th Cir. 2001); *see also Kershaw County Bd. of Educ. v. U.S. Gypsum Co.*, 302 S.C. 390, 394, 396 S.E.2d 369, 372 (1990) (explaining an adverse inference may be drawn when evidence is lost or destroyed by a party).

Order, 10. The Court also retained jurisdiction over the motion to ensure compliance with the Order. Id. at 12. There is no ruling on the issue of spoliation—it is expressly reserved.

Moreover, if the Court deemed the Phillips' proposal inconsistent with the directive that was given, inconsistent with the law, or inconsistent with the facts, then this Court was more than capable of modifying the proposal as it deemed appropriate. An email from Chamber's staff is not a ruling of the Court and there was no ruling until the Court filed an order, which it did.

III. The Defendants' request for relief should be denied.

The Defendants claim the protocol that has been ordered fails to set any "reasonable parameters to protect the privacy rights of Individual Defendants, or non-party individuals..." Defs' Mot. Recon., 9. This is not true.

The Order does not require the individual Defendants to hand their phones over to the Phillips' counsel; it requires them to provide the devices to their counsel and an expert retained to assist in collecting, reviewing, and producing *responsive* information. See Order, 11–12. The Order *preserves* the attorney-client privilege but requires a privilege log. Id. It *permits* redaction and confidential designation to protect third parties. Id. It does not exceed the relief requested by the motion (cf. Defs' Mot. Recon., 9); it provides a framework to extract discoverable information while protecting the very concerns about which the Defendants now complain.

The Defendants claim that the protocol is "broader than the relief discussed, and even requested, during the January 5, 2026 hearing." Defs' Mot. Recon., 9. To the contrary, this protocol was *explicitly* discussed during the hearing as evidenced by the following colloquy with the Court:

[remainder of page intentionally blank]

LY FILED: 2026 Mar 16 10:06 AM BERKELEY - COMMON PLEAS - CASE#2023CP0803019

3 THE COURT: Let me interrupt, Mr. Kenney.
4 And I'm not technologically savvy enough to provide
5 any of the answers that I may be asking questions
6 about, but is there any -- any steps that you want
7 taken? Is there phones that you want retrieved
8 that you want to investigate? What steps are you
9 asking for in order to try to recover any of this
10 information, if it's still there? What steps --
11 what steps -- what exact steps are you asking me to
12 impose on these individuals? What steps?

13 MR. KENNEY: Yes, Your Honor. I would like
14 the defendants to do what my clients have already
15 done, which is the following: Number one, they
16 need to provide their phone and any phones that
17 they may have during this time period to Ms. Heslop
18 and her office. That's number one.

19 Number two, at their expense, they need to
20 hire a forensic expert. We use a guy in Charleston
21 named John Akerman, but there is many folks that do
22 this work to go into the phones and attempt to do a
23 forensic extraction to retrieve the information
24 during the relevant time period that we've asked
25 for.

Hr'g Tr. 11. The colloquy continued:

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1 Three, that information can be provided to
 2 Me. Heslop, and she can review it, something that
 3 has never happened in this case. She needs to
 4 review it, and we would ask for a filed affidavit
 5 from both her phone expert and from her as to
 6 precisely what they have done in this matter.

7 That is what -- and then, Your Honor, if the
 8 information doesn't exist any longer, that will be
 9 another matter for another time, but we've been
 10 trying to get answers and get somebody to collect
 11 these messages going on three years, and I just
 12 don't accept the idea that they vanished.

13 THE COURT: Ms. Heslop, any objection to
 14 collecting the phones from these folks that they
 15 have, having an expert do the examination, extract
 16 it, and you review it before turning it over to Mr.
 17 Kenney?

18 MS. HESLOP: Yes, we do object to it, Your
 19 Honor. And we filed a memorandum in opposition.

Id. at 12. Contrary to the Defendants' statements here, the protocol was explicitly discussed.

The Defendants also have the temerity to claim: "While the Court ultimately decided to grant Plaintiffs' Motion to Compel, the Court did not specify the relief to be granted, if any, in its March 5, 2026 email." Defs' Mot. Recon., 10. They claim that the Order's protocol "far exceeds any protocol discussed, or even requested, by Plaintiffs' counsel, leaving significant areas of concerns yet to be addressed; thereby, resulting in the parties likely having to return to the Court to obtain necessary clarification on the same." Id.

Respectfully, the only thing necessitating continued Court intervention are the repeated false and frivolous assertions advanced by the Defendants in this case.

IV. The Court should award fees and costs against the Defendants.

In asking the Court to award fees and costs, the undersigned is mindful of two things. First, that courts loathe sanction requests. Rightfully so. It is an unwelcome task to declare that someone broke the rules and then to impose a consequence. However (and second), the courts of this state are overrun with discovery disputes that needlessly slow the speed of litigation and consume far more judicial resources than they otherwise should. The discovery rules are not that complicated and rarely is there an issue so novel or difficult that it should consume the amount of time as this motion. During the January 5 hearing, the Court had no difficulty getting to the core of this matter:

9 THE COURT: Which they exchanged text
10 messages, which are obviously relevant to the case,
11 where they took pictures that are relevant to the
12 case, and now they -- they don't have it, and they
13 say it's gone. I mean, that's mystifying to me.
14 But I understand your concern about information
15 that probably shouldn't be shared, and there is
16 probably some of it that shouldn't be shared, but
17 wouldn't you be able to exclude that information
18 under the scenario suggested by Mr. Kenney?
19 MS. HESLOP: Well, I think that we need some
20 sort of parameters and goalposts that are very
21 clear and put in place. But, also, Mr. Kenney's

Hr'g Tr. 13. Over the Defendants' objections, the Court granted the motion and entered an Order setting those parameters. The Defendants were heard, they made their arguments, they did not prevail. In every motion and in every case, one side prevails and the other does not.

Then the Defendants filed *this* motion. Here they claim the Court failed to consider things it obviously did. They claim there is no evidence when there plainly is. They claim matters were not discussed when they indisputably were. The arguments are not just duplicative of those the Court already rejected but they are willfully obstinate to any fair read of the record.

This motion wastes the Court's time and the Phillips' counsels' time—detracting time they might otherwise spend advancing other matters on this or another court dockets. Zealous litigation is no vice, but a litigant is not permitted to claim that yes is no, up is down, and black is white. That is not advocacy; it is obstruction, and it's against the rules. Unless courts are willing to impose consequences for frivolous motion practice that needlessly slows litigation and clutter court dockets, then our courts and the citizens who rely on them to settle disputes will continue to be needlessly frustrated by inaction and delay. Only one side is rewarded by delay in this case: the Defendants. There should be some consequence for needlessly causing it here.

“The written or electronic signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay.” Rule 11(a), SCRCp. When a motion is signed in violation of Rule 11, a court may impose upon the lawyer, the party, or both “an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney's fee.” Id.

In denying this motion, the Phillips respectfully request that the Court award attorneys' fees and costs for the time spent responding to this motion. A consequence is appropriate here and it will also act as a deterrent to other future litigants to dissuade them from cavalierly wasting court time with frivolous motion practice.

CONCLUSION

A hearing on the motion is not needed. The motion should be denied, and the Court should award attorneys' fees and costs to the Phillips pursuant to Rule 11(a), SCRCP, along with such further relief as the Court deems just and proper.

Respectfully submitted,

s/Christopher P. Kenney

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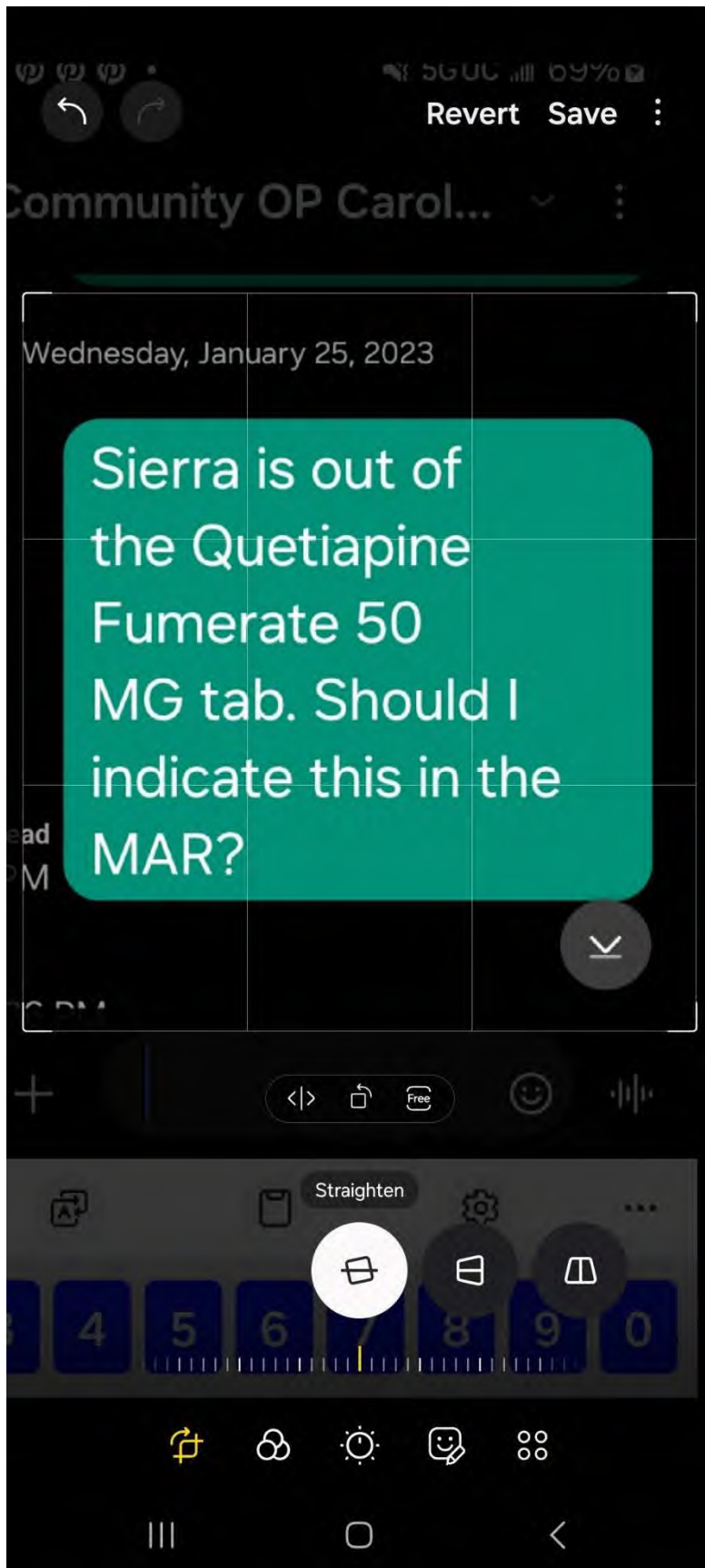
ATTORNEYS FOR PLAINTIFFS
JOY D. PHILLIPS AND JAMES C. PHILLIPS

April 15, 2026
Columbia, South Carolina.

Exhibit A

Phillips_Manigault Text Msgs_0001–02

Good evening,
Sierra's mom said
she'll inform you,
that she took the
iPad to activate it;
ofcourse



STATE OF SOUTH CAROLINA

)

IN THE COURT OF COMMON PLEAS

)

NINTH JUDICIAL CIRCUIT

COUNTY OF BERKELEY

)

Joy D. Phillips individually and
as guardian of Sierra A. Phillips,
and James C. Phillips,

Plaintiffs,

v.

Community Options, Inc.,
Angela Stuckey, Shirley Anderson,
and Willa Manigault,

Defendants.

C/A No.: 2023-CP-08-_____

SUMMONS

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONS and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted,

s/Christopher P. Kenney

Christopher P. Kenney (SC Bar No. 100147)

CHRIS KENNEY LAW

Post Office Box 1377

808 Lady Street, Suite D7 (29201)

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ATTORNEY FOR PLAINTIFFS

JOY D. PHILLIPS AND JAMES C. PHILLIPS

October 25, 2023

Columbia, South Carolina.

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

)
)
)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Joy D. Phillips, individually and
as guardian of Sierra A. Phillips,
and James C. Phillips,

Plaintiffs,

v.

Community Options, Inc.,
Angela Stuckey, Shirley Anderson,
and Willa Manigault,

Defendants.

C/A No.: 2023-CP-08-_____

COMPLAINT
(Jury Trial Requested)

Plaintiffs Joy D. Phillips, individually and as guardian of Sierra A. Phillips, and James C. “Chris” Phillips, bring this action on behalf themselves and their daughter Sierra—an adult with special needs—against Defendants Community Options, Inc., Angela Stuckey, Shirley Anderson, and Willa Manigault.

Joy and Chris trusted Community Options to care for and assist Sierra at one of the company’s group homes for adults with special needs. Instead, it hired Stuckey, Anderson, and Manigault who physically abused Sierra by hitting and kicking her over the course of many months. When the Community Options staff believed Joy and Chris might discover the abuse, they made a false police report of the most heinous nature against Sierra’s parents—physical and sexual abuse of their own child. As a result, the Phillips were investigated by the police and restricted from seeing their daughter for 41 days. Having been cleared by authorities and having now removed their daughter from her abusers’ custody, Plaintiffs now bring this action for (1) assault and battery, (2) defamation, (3) civil conspiracy, and (4) negligent hiring and supervision and would respectfully show this Honorable Court as follows:

JURISDICTION AND VENUE

1. The Court has subject matter jurisdiction over this civil action pursuant to Article V, § 11 of the South Carolina Constitution.

2. The Court has personal jurisdiction over the Defendants because the conduct at issue in this case occurred in Berkeley County, South Carolina.

3. Venue is proper in Berkeley County pursuant to South Carolina Code § 15-7-30(C)(2) because the most substantial part of the acts and omissions of the Defendants occurred in Berkeley County, South Carolina.

PARTIES

4. Plaintiff Joy D. Phillips is a resident of Brunswick County and a citizen of the State of North Carolina. She is the mother and legal guardian of Sierra A. Phillips. Joy works with adults with special needs. Joy and her husband Chris have three children, including Sierra.

5. Plaintiff James C. “Chris” Phillips is a resident of Brunswick County and a citizen of the State of North Carolina. He is Sierra’s father. Chris retired from the U.S. Navy after 22 years of service and received an honorable discharge.

6. Sierra A. Phillips is a resident of Charleston County and a citizen of the State of South Carolina. Sierra is 27 years old woman with autism, dwarfism, a heart condition, ADHD, and other medical conditions. Sierra’s mental abilities are comparable to an 8 to 10-year-old child. Sierra requires assistance with many daily activities, including meals and hygiene, and a guardian (her mother) to manage her affairs.

7. Defendant Community Options, Inc. purports to be a non-profit corporation incorporated in the State of New Jersey and operating in 11 states, including South Carolina. The corporation holds itself out as supporting people with disabilities by providing residential services,

day programs, and employment and educational programs. One of Community Options' residential living facilities is known as "Thistle CTH II," located in Goose Creek, South Carolina. At all times relevant to this action, Community Options was liable for the acts and omissions of its officers, employees, and agents.

8. Defendant Angela Stuckey is believed to be a resident and a citizen of the State of South Carolina. At all times relevant to this action, Stuckey was an employee of Community Options charged with the care and support of Sierra and her roommates, all vulnerable adults.

9. Defendant Shirley Anderson is believed to be a resident and a citizen of the State of South Carolina. At all times relevant to this action, Anderson was an employee of Community Options charged with the care and support of Sierra and her roommates, all vulnerable adults.

10. Defendant Willa Manigault is believed to be a resident and a citizen of the State of South Carolina. At all times relevant to this action, Manigault was an employee of Community Options charged with the care and support of Sierra and her roommates, all vulnerable adults.

FACTUAL ALLEGATIONS

11. In 2017, Sierra moved into Thistle CTH II, a group home run by Community Options. At all times relevant to this action, Sierra was one of four residents or "consumers" living at the Thistle CTH II.

12. At all times relevant to this action, Thistle CTH II was required to have two staff people at the group home to care for and assist residents, except during third shift when residents were sleeping.

13. Initially, Sierra had success and enjoyed living at the group home.

14. She maintained regular contact with her parents, who remained very involved in her life and care.

15. Joy in particular kept close track of Sierra's care at the group home and advocated for her daughter's needs.

16. In March 2020, the U.S. Government and State of South Carolina declared a public health emergency caused by the COVID-19 virus.

17. In response to the pandemic, Thistle CTH II implemented quarantine policies and procedures designed to curtail the spread of COVID-19; however, these measures also led to fewer family visits with residents.

18. Beginning in 2021 and accelerating in 2022, Joy and Chris became increasingly concerned about Sierra, noticed changes in her demeanor and behavior, bruising, and troubling interactions with Community Options' staff.

Joy and Chris's concerns over Sierra's care

19. During the COVID-19 pandemic, Joy became increasingly concerned with the care Sierra was or was not receiving, particularly as it concerned Sierra's personal hygiene, retaliation against Sierra for behavioral issues, possible abuse, and Community Options' billing practices.

20. Joy raised issues of Community Options' billing practices and mismanagement of Sierra's benefit funds with executive level staff and had numerous communications with staff beginning in 2020.

21. Sometime during Fall 2020, Community Options staff supervisor Carolyn White told Joy and Chris to stop contacting the house staff directly and to, instead, contact her (White) concerning all Sierra-related issues.

22. On December 16, 2020, Joy learned staff was listening in to conversations between Sierra and her parents and could be heard in the background telling Sierra what to say to her parents. Joy asked that this practice stop.

23. On February 15, 2021, staff intercepted and hid a Valentine's Day gift dropped off by Sierra's sister claiming Sierra could not have it because of "bad behavior."

24. On August 7, 2021, Joy and Chris visited the home to find Sierra's mattress covered in urine with Sierra laying in it when they arrived.

25. On some occasions when Joy and Chris visited the house, they found dirty diapers under Sierra's bed.

26. In December 2021, Joy and Chris took Sierra to the family's timeshare in Myrtle Beach for the Christmas holiday. While Sierra was with her parents, they noticed bruising on the back of Sierra's arms and the outside of her thighs.

27. When asked about this bruising, Sierra claimed she did not know what happened.

28. Joy and Chris contacted White and reported that someone was putting hands on Sierra in an aggressive manner and that she (White) needed to make an inquiry.

29. On February 18, 2022, Joy and Chris visited the home to find the smoke detector beeping. Sierra told them it had been beeping for three days, which the staff confirmed and told them the maintenance worker would get to it when he could.

30. On July 23, 2022, Sierra called her mother upset because another resident came out of the kitchen holding a knife to her own neck stating she did not want to live anymore. Sierra told her mother one staff member wanted to call 911, but the other staff member wanted to call the home supervisor instead. The supervisor refused to discuss the issue with Joy, claiming she could not discuss the other resident with Joy due to HIPPA (notwithstanding the obvious impact the incident had on Sierra).

31. On August 10, 2022, Joy suggested staff return to eyes-on Sierra every 15 minutes after an incident in which Sierra took a phone from another resident's room while that resident was in the hospital, played with it until it died, then return to the room and plug it back in.

32. Sometime around this August 2022 timeframe, Stuckey became the group home manager.

33. On August 24, 2022, Joy received a call from a nurse at Sierra's day program, Active Day, who told Joy that Sierra had come to the facility with "greasy hair" and "body odor" four days in a row. Joy relayed this information to White.

34. On November 3, 2022, Sierra called Joy and told her there were "issues" regarding the house residents going to the fair, so they did not go, and that Sierra's TV had been taken away from her for bad behavior. Joy then spoke to White, who reported that Sierra was refusing to attend to her hygiene or get out of bed and was cursing so her TV was taken away. Joy reminded White that the TV was Sierra's property and that the positive reward plan in place allowed Sierra to "earn" access to her tablet by doing her morning routine but that her TV was not part of that system. White disagreed, stating the punitive system was in place when she (White) took over in early 2022.

35. On December 19, 2022, Joy and White received a text from Stuckey stating, "Been at work since 12 last night right now F all them". Another message read, "Really she's to special". Followed by, "Sorry wrong person vacation mode".

36. That same day, Joy attempted to call White three times with no answer. When she asked White via text to call her about the disturbing group texts (that were presumably sent to Joy by accident), White apologized for Stuckey's messages and said it would not happen again.

37. Meanwhile, Joy also called Community Options' residential director to report the messages and express concern for Sierra's safety. Joy told the director to get other staff in the home or she would report Community Options to the state ombudsman.

38. On December 28, 2022, Sierra's sister picked Sierra up from the group home and met with Joy and Chris to exchange Sierra for a visit at their timeshare in Surfside Beach, South Carolina. Joy and Chris observed that Sierra was dirty and smelled bad and was without her tablet.

39. Joy called White to report this incident and asked where Sierra's tablet was and told her it needed to be there when they returned, or they needed to get Sierra a new tablet.

40. That same day, Joy contacted Miranda Clegg-Moore Varnon, Sierra's case worker through the Charleston County Disabilities Board, to make a complaint.¹

41. At the timeshare, Joy and Chris helped Sierra shower. Because Sierra has toileting issues, her pubic hair had become matted like dreadlocks and smelled of urine. Her parents assisted Sierra in washing her pubic hair and Chris shaved it.

42. Upon information and belief, the Defendants learned of Joy's complaint sometime around this time.

43. On December 30, 2022, Joy texted White to report that she would return Sierra to the home on December 31, not December 30 as originally planned.

44. On December 31, 2022, Joy and Chris dropped Sierra off at the group home.

45. Upon arriving at the house, one of the staff members, Willa Manigault, reported to Joy that Sierra had a new tablet because the old one could not be located.

¹ The investigation was not able to verify allegations concerning Sierra's lack of personal hygiene but did verify (1) that staff was not following Sierra's care plan by taking her tablet in retaliation or as punishment for behaviors and (2) staff was not following Sierra's behavioral support plan. These findings were memorialized in a January 18, 2023, letter to Community Options' state director.

46. Joy told Manigault that she and Chris would pick Sierra back up on January 8 for a week-long trip to Disney World.

**Sierra was secretly being physically and
verbally abused by Community Options staff**

47. Beginning sometime during the pandemic, and unbeknownst to Joy and Chris, Sierra was repeatedly hit and kicked and subjected to verbal threats and abuse by Community Options staff, specifically Stuckey, Anderson, and Manigault.

48. The acts of physical violence were either punitive or an effort to obtain compliance from Sierra with various household matters or in response to her occasional behaviors.

49. Just prior to the first incident of physical abuse, Stuckey became upset with Sierra and threatened, “you fucking bitch, I’m going to kick your ass.”

50. Several days later, Stuckey struck Sierra for the first time when Sierra was startled by a fire drill and dropped an “Uncrustable” sandwich on the floor causing a mess. In response, Stuckey kicked Sierra.

51. After this incident, Sierra routinely experienced physical abuse from staff.

52. This physical abuse often took the form of Stuckey, Anderson, and Manigault hitting Sierra on her legs and arms with a closed fist.

53. Sometimes staff kicked Sierra while she was in her bedroom with no one around.

54. Often Sierra was kicked for refusing to take a shower.

55. This physical abuse occurred almost daily up until Joy and Chris removed her from the home (see below).

56. As a result of the physical and verbal abuse, Sierra feared staff.

**Community Options staff conspire to make a
false police report against Joy and Chris**

57. On January 8, 2023, Joy and Chris were scheduled to pick Sierra up from the group home and take her to Disney World in Orlando, Florida. Unbeknownst to them, Sierra was covered in bruises from staff abuse.

58. On Tuesday, January 3, 2023, the long-term care ombudsman for the State of South Carolina showed up at Active Day to interview Sierra in response to the December 29, 2022, complaint Joy made to Varnon, who in turn relayed it to the ombudsman's office.

59. At 12:45 p.m., Active Day contacted Joy for permission for the ombudsman to interview Sierra, which Joy granted.

60. Upon information and belief, Community Options was aware of the ombudsman's investigation or became aware of it on January 3.

61. Stuckey was informed by Active Day staff that someone had come to talk to Sierra. On the way back to Thistle CTH II, Stuckey quizzed Sierra about why she was interviewed.

62. Later that afternoon/evening, still on January 3, 2023, Sierra was having a behavior and refusing to take a shower. Anderson and Manigault became upset with Sierra and took turns kicking her from behind on her backside and between her legs. After what seemed like a few minutes, Sierra relented and agreed to shower.

63. When she removed her underwear to shower, Sierra noticed blood in her underwear from the abuse to which the women had just subjected her.

64. It is believed that sometime on this same day, Anderson and Manigault took photos of Sierra with her pants down with their cell phones.

65. Sometime that same day, one or more of the Defendants, believed to be Anderson, called the North Charleston Police Department to make a complaint against Joy and Chris.

66. According to a North Charleston Police Department report, Anderson stated that on December 28, 2022, Sierra's sister picked her up from the group home and took her to Joy and Chris's home for a visit. Anderson claimed, "THE VICTIM WAS SUPPOSED TO BE RETURNED TO THE CG2 HOUSE ON 12/29/22, BUT THE FAMILY DIDN'T RETURN HER UNTIL 12/30/22."

67. This is false. Joy and Chris returned Sierra to the group home on December 31 and notified White they would be returning her one day later than originally planned.

68. Nevertheless, Anderson also told police:

... THE COMPLAINANT STATES THAT WHEN THE VICTIM WAS SHOWERING SHE NOTICED THE VICTIM'S BEHIND WAS RED, WHEN ASKED WHAT HAPPENED THE VICTIM STATED THAT HER MOTHER AND FATHER SPANKED HER, WITH A BELT, SHE STATES THAT THEY SPANKED HER BECAUSE SHE DIDN'T HAVE HER IPAD.

AS THE VICTIM WAS TAKING A SHOWER THEY ALSO NOTICED THE VICTIM'S VAGINAL AREA WAS SHAVED, SHE WAS ASKED WHO "SHAVE YOU MOM, THE VICTIM STATES NO DAD SHAVED ME" AND HE ALSO BATHE ME, HE ALSO TOUCH MY BREAST". THE COMPLAINANT STATES, THE VICTIM FREELY GAVE THIS INFORMATION TO THE LEAD STAFF, ANGELA STUCKEY, COORDINATOR CAROL WHITE.

WILLARD MANAGULT WITNESSED THIS STATEMENT AND THE BRUSHES ON HER BEHIND. THE COMPLAINANT STATES SLED HAS BEEN NOTIFIED AND SHE WAS TOLD TO REPORT THIS TO NCPD BY COORDINATOR KENDRA. THE SUSPECTS ARE THE VICTIM PARENTS JAMES C PHILLIPS AND JOY PHILLIPS.

(errors in original).

69. This is false; Joy and Chris never physically or sexually abused their daughter.

70. In fact, Anderson groped Sierra's breast and the incident occurred when there was no justification for that private touching (e.g., assistance with showering).

71. On Wednesday, January 4, 2023, Sierra was at Active Day when Stuckey arrived and instructed Sierra to come with her. Stucky drove Sierra and another resident to Trident Medical Center in Charleston, South Carolina.

72. At the hospital, Stuckey and the resident accompanied Sierra into the examination room. Stuckey answered the nurse and doctor when asked what happened and falsely reported that Sierra had been abused by her parents.

73. Sierra wanted to speak up and correct her but was too afraid and remained silent.

74. The Trident Health record of notes from medical providers reports (in part):

This is a 26-year-old female with past medical history of autism, MR coming in due to bruising. After through [sic] discussion (with both myself and the case manager) with the patient and group home supervisor, patient has told us she has been physically assaulted with a belt by both her mother and father. After further discussion, patient admitted to to [sic] being sexually assaulted by her father and that he gave her a bath on Saturday and touched her breasts multiple times. Physical [sic] exam revealed some bilateral inner thigh bruising, vaginal bleeding, and vulvar erythema. Patient did not openly state she was raped. ...

... I discussed with case management the next steps. DSS stated that they are outside the sane exam window and not much can be done at this time as the incident occurred in North Carolina at the parents time share. DSS will notify the Brunswick County Sheriff in North Carolina where the incident took place. The trip to Florida that was supposed to happen in 3 days has been canceled. Patient will also cancel her home visits. Patient has a safe place to go to at her group home that is supervised. All parties are amenable to this plan.

75. This report is false.

76. In fact, the bruising to Sierra's inner thighs and vaginal bleeding observed by medical personnel was caused by Anderson and Manigault kicking Sierra the day before.

Law enforcement investigates and clears Joy and Chris

77. From January 4 until February 13, 2023, Joy and Chris were investigated by multiple law enforcement agencies for some of the vilest crimes—physical and sexual abuse of their own daughter, a vulnerable adult.

78. On January 4, 2023, Community Options' executive director, Alan Rose, told Joy that no one in her family could see or speak to Sierra because there was an "ongoing investigation."

79. Shortly thereafter, Joy was contacted by the Brunswick County Sheriff's Office claiming it received an "anonymous tip" Chris beat Sierra with a belt at their North Carolina home.

80. Joy and Chris met with the detective assigned to the case and gave an interview. The detective told Joy and Chris that the tip said the belt incident happened on December 31, 2022, at 1 p.m.; however, Joy and Chris were in Charleston at a restaurant in Shem Creek, and produced a receipt for the restaurant that day at 1:17 p.m.

81. The case was closed as unfounded.

82. Another police file was opened by Horry County Sheriff's Office concerning abuse alleged to have occurred at Joy and Chris's timeshare in Horry County, based on a referral from North Charleston Police Department.

83. Horry County investigated the matter and Joy and Chris cooperated fully and made themselves available to the police for interview.

84. On February 6, 2023, that case was closed as unfounded.

85. On February 13, 2023, Joy received a phone call from the Horry Police Department reporting that it had closed its case. Joy immediately removed Sierra from Thistle CTH II.

Sierra tells the truth after leaving Thistle CTH II

86. Once she was no longer living at the group home, Sierra was free to tell the truth without fear of retaliation.

87. On March 16, 2023, Sierra met privately with her Case Management Supervisor, Miranda Clegg-Moore Varnon, to "tell the truth" about the group home and tell "what really happened" concerning allegations of physical and sexual abuse against her parents.

88. Sierra explained that “ever since COVID” staff in the home struck her, typically kicking her on her buttocks and that this abuse occurred at least once, sometimes more each day.

89. Sierra also explained that staff caused the injuries that were observed the day she went to the hospital. Specifically, Sierra identified Anderson and Manigault as responsible and stated that Manigault was the one who kicked her on her buttocks. Sierra also reported that Anderson “groped her boob.”

90. Sierra explained that later, Anderson discovered the mark on Sierra’s buttocks.

91. At the hospital, Sierra was “too scared” to report what really happened.

FIRST CAUSE OF ACTION

Assault and Battery

(A claim by Sierra, through her Guardian, against Stuckey, Anderson, and Manigault)

92. Plaintiffs incorporate each of the foregoing paragraphs as if set forth verbatim.

93. An assault is an attempt, with force or violence, to inflict bodily harm on another or engage in some offensive conduct that places the victim in reasonable fear of harm.

94. A battery is the unlawful touching or striking of another that is not privileged and done to bring about harm or make offensive contact.

95. On one or more occasions set forth above, Defendants Stuckey, Anderson, and Manigault by their conduct did, in fact, cause Sierra to suffer reasonable fear of harm and they did, in fact, engage in non-privileged, unlawful touching.

96. This touching was violent and resulted in physical injury.

97. It was also offensive, specifically, the non-medical touching of Sierra’s breast.

98. As a result of Defendants Stuckey, Anderson, and Manigault’s conduct, Sierra has suffered physical and emotional damage, humiliation, embarrassment, shame, and mental anguish.

99. Sierra is entitled to recover actual and punitive damages to compensate her for the injuries and indignity she has suffered and to punish Defendants Stuckey, Anderson, and Manigault for the wrongfulness of their conduct.

SECOND CAUSE OF ACTION
Defamation and defamation *per se*
(A claim by Joy and Chris against All Defendants)

100. Plaintiffs incorporate each of the foregoing paragraphs as if set forth verbatim.

101. Defamation is the unprivileged, false, and defamatory statement concerning another that is either actionable or causes special harm.

102. Falsely accusing someone of committing a crime is defamatory *per se*.

103. Joy and Chris are private figures.

104. Defendants falsely and in bad faith accused Plaintiffs of vile crimes, specifically, the physical and sexual abuse of their own daughter.

105. Defendants' false statements, made to law enforcement, had their real and intended consequences in the form of multiple criminal investigations into Joy and Chris.

106. As a result of Defendants false and injurious statements, Joy and Chris have been damaged by being denied access to their daughter, suffering emotional distress, outrage, and reputational harm, and suffering pecuniary loss in having to retain counsel and the loss of employment advancement.

107. Accordingly, they are entitled to recover general and special damages along with punitive damages sufficient to impress upon Defendants the wrongfulness of their actions.

THIRD CAUSE OF ACTION
Civil Conspiracy
(A claim by Joy and Chris against All Defendants)

108. Plaintiffs incorporate each of the foregoing paragraphs as if set forth verbatim.

109. A civil conspiracy is the agreement of two or more persons, to commit an unlawful act or a lawful act by unlawful means, with the commission of one or more overt acts in furtherance of the conspiracy, which proximately causes damage to the Plaintiff.

110. Defendants did agree and conspire to falsely accuse Joy and Chris of abusing Sierra when, in fact, they themselves were responsible for the abuse.

111. The purpose of the conspiracy was to make a false police report, which they did, and to conceal Defendants' own misconduct in abusing Sierra and/or failing to report the abuse of a vulnerable adult.

112. The conspiracy was also designed to harm Joy and Chris, which it did.

113. The Defendants furthered their conspiracy through multiple overt acts, including filing false police reports, making false statements to police, taking Sierra to the hospital for an examination, coercing and/or intimidating Sierra into corroborating their false allegations, and other acts known and unknown to Plaintiffs.

114. Accordingly, Joy and Chris are entitled to recover actual damages and punitive damages sufficient to impress upon Defendants the wrongfulness of their actions.

FOURTH CAUSE OF ACTION
Negligent Hiring and Supervision
(A claim by Sierra, Joy, and Chris against Community Options)

115. Plaintiffs incorporate each of the foregoing paragraphs as if set forth verbatim.

116. An employer is liable for negligent hiring and supervision when the employer knew or should have known that its employment of a specific person creates an undue risk of harm, which causes harm to the plaintiff.

117. Here, Community Options knew or should have known that Defendants Stuckey, Anderson, and Manigault were unable to deal with the challenge of caring for vulnerable adults,

were engaged in physical and verbal abuse, were neglecting individuals left to their care, and/or had a propensity to criminality and deceit.

118. Moreover, through adequate supervision, Community Options could have and should have discovered the risk posed by Stuckey, Anderson, and Manigault and terminated their employment to prevent further harm.

119. Community Options failed in both respects, which resulted in foreseeable harm to Sierra, Joy, and Chris, all of whom were damaged and are entitled to recover actual and punitive damages to compensate them and punish Community Options.

JURY TRIAL DEMAND

120. Plaintiffs hereby demand a trial by jury on all claims so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for a judgment against the Defendants jointly and severally awarding them:

- (i) Actual damages in an amount sufficient to compensate Plaintiffs for physical and emotional injuries, emotional distress and outrage, and monetary loss;
- (ii) Punitive damages in an amount sufficient to impress upon the Defendants the seriousness of their wrongful conduct; and
- (iii) All such further relief as the Court deems just and proper.

[signature page follows]

Respectfully submitted,

s/Christopher P. Kenney

Christopher P. Kenney (SC Bar No. 100147)

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ATTORNEYS FOR PLAINTIFFS

JOY D. PHILLIPS AND JAMES C. PHILLIPS

October 25, 2023

Columbia, South Carolina.

| | | |
|---|---|-------------------------------------|
| STATE OF SOUTH CAROLINA |) | IN THE COURT OF COMMON PLEAS |
| |) | CIVIL ACTION NO.: 2023-CP-08-03019 |
| COUNTY OF BERKELEY |) | |
| |) | |
| Joy D. Phillips individually and as guardian of |) | |
| Sierra A. Phillips, and James C. Phillips, |) | |
| |) | DEFENDANT COMMUNITY OPTIONS, |
| Plaintiffs, |) | INC.'S ANSWER TO COMPLAINT |
| |) | |
| vs. |) | (Jury Trial Demanded) |
| |) | |
| Community Options, Inc., Angela Stuckey, |) | |
| Shirley Anderson, and Willa Manigault, |) | |
| |) | |
| Defendants. |) | |
| |) | |

Defendant Community Options, Inc. ("Community Options"), answering the Complaint of Plaintiffs, Joy D. Phillips individually and as guardian of Sierra A. Phillips, and James C. Phillips ("Plaintiffs"), alleges and says:

1. Community Options denies the allegations contained in the unnumbered Paragraphs.
2. The allegations contained in Paragraphs 1, 2 and 3 constitute legal conclusions to which no response is required. To the extent a response is required, Community Options denies the allegations and demands strict proof thereof.
3. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraphs 4 and 5 and, therefore, denies the same and demands strict proof thereof.
4. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraph 6 as to Sierra A. Phillips' ("Sierra") residence and citizenship and, therefore, denies the same and demands strict proof thereof. As to the remaining allegations, Community Options craves reference to the pertinent records of Sierra and denies any allegations of the Paragraph that are inconsistent with and/or contrary to the records.
5. Answering the allegations contained in Paragraph 7, Community Options admits it is a non-profit corporation organized and existing pursuant to the laws of the State of New Jersey, and that it is registered to do business in the State of South Carolina. Further, Community Options admits Thistle CTH

II is a residential living facility in Goose Creek, South Carolina, and that it provided Seirra with residential services. Community Options denies the remaining allegations of the Paragraph.

6. The allegations contained in Paragraphs 8, 9, and 10 are not directed to Community Options and, therefore, no response is required. To the extent a response is required, Community Options denies the same and demands strict proof thereof.

7. Answering the allegations contained in Paragraph 11, Community Options admits that on/about October 5, 2017, Seirra moved into Thistle CTH II. Community Options denies the remaining allegations of the Paragraph.

8. Community Options denies the allegations contained in Paragraph 12.

9. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraph 13 and, therefore, denies the same and demands strict proof thereof.

10. Answering the allegations contained in Paragraph 14, Community Options admits that Sierra was in contact with her parents. Community Options denies the remaining allegations of the Paragraph.

11. Answering the allegations contained in Paragraph 15, Community Options admits that it communicated with Joy D. Phillips (“Joy”) regarding Sierra. Community Options denies the remaining allegations of the Paragraph.

12. Answering the allegations contained in Paragraph 16, Community Options admits on March 13, 2020, President Trump declared a national emergency due to COVID-19, and that Governor McMaster signed an Executive Order declaring a state of emergency. Community Options denies the remaining allegations of the Paragraph.

13. Answering the allegations contained in Paragraph 17, Community Options admits Thistle CTH II implemented policies and procedures regarding COVID-19 pursuant to available state and federal guidance. Community Options denies the remaining allegations of the Paragraph.

14. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraphs 18 and 19 and, therefore, denies the same and demands strict proof thereof.

15. Community Options denies the allegations contained in Paragraph 20.

16. Answering the allegations contained in Paragraph 21, Community Options admits that Carolyn White, Program Manager, advised Joy and James C. Phillips (“Chris”) to contact her directly. Community Options denies the remaining allegations of the Paragraph.

17. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraph 22 and, therefore, denies the same and demands strict proof thereof.

18. Answering the allegations contained in Paragraph 23, Community Options admits that on February 15, 2021, a Valentine’s Day gift for Seirra was placed on the countertop until she cleaned her room. Community Options further craves reference to the pertinent records regarding Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Community Options denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Community Options denies the remaining allegations of the Paragraph.

19. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraphs 24 and 25 and, therefore, denies the same and demands strict proof thereof.

20. Answering the allegations contained in Paragraph 26, Community Options admits, upon information and belief, that Joy and Chris took Sierra to Myrtle Beach on December 26, 2021 through December 29, 2021. Community Options denies the remaining allegations of the Paragraph.

21. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraphs 27 and 28 and, therefore, denies the same and demands strict proof thereof.

22. Answering the allegations contained in Paragraph 29, Community Options admits Joy and Chris visited Serria on February 18, 2022, and that Joy and Chris reported the smoke detector in Sierra’s room was beeping. Community Options further craves reference to the pertinent records regarding Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Community Options denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Community Options denies the

remaining allegations of the Paragraph.

23. Community Options can neither admit nor deny the allegations contained in Paragraph 30 due to privacy concerns protected by state and federal law. To the extent a response is required, Community Options denies the same and demands strict proof thereof.

24. Community Options denies the allegations contained in Paragraph 31, as stated, and demands strict proof thereof.

25. Answering the allegations contained in Paragraph 32, Community Options admits that Angela Stuckey became the Group Home Manager on July 1, 2022. Community Options denies the remaining allegations of the Paragraph.

26. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraph 33 and, therefore, denies the same and demands strict proof thereof.

27. Community Options denies the allegations contained in Paragraph 34, as stated, and demands strict proof thereof.

28. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraphs 35, 36, and 37 and, therefore, denies the same and demands strict proof thereof.

29. Answering the allegations contained in Paragraph 38, Community Options admits that on December 28, 2022, Sierra's sister picked Sierra up from Thistle CTH II and, upon information and belief, exchanged Seirra for a visit with Joy and Chris. Further, Community Options admits that Sierra did not have her tablet with her at that time. Community Options denies the remaining allegations of the Paragraph.

30. Answering the allegations contained in Paragraph 39, Community Options admits it purchased a new tablet for Sierra and that Sierra's old tablet was located. Community Options denies the remaining allegations of the Paragraph.

31. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraph 40 and, therefore, denies the same and demands strict proof thereof.

32. Answering the allegations contained in Paragraph 41, Community Options craves reference to the pertinent records of Sierra and the anticipated testimony of individuals with personal

knowledge of the events involving Sierra. Community Options denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Community Options denies the remaining allegations of the Paragraph.

33. Due to the vague nature of the allegations contained in Paragraph 42, Community Options can neither admit nor deny the same. To the extent a response is required, Community Options denies the same and demands strict proof thereof.

34. Answering the allegations contained in Paragraphs 43 and 44, Community Options admits that Joy dropped Sierra off at Thistle CTH II on December 31, 2022, instead of on December 30, 2022, as planned. Community Options lacks sufficient information to form a belief as to the remaining allegations contained in Paragraphs 43 and 44 and, therefore, denies the same and demands strict proof thereof.

35. Answering the allegations contained in Paragraph 45, Community Options admits that Willa Manigault told Joy that Sierra had a new tablet. Community Options denies the remaining allegations of the Paragraph.

36. Answering the allegations contained in Paragraph 46, Community Options admits Joy told Willa Manigault on December 31, 2022, that she and Chris would pick Sierra up on January 8, 2023, for a trip to Disney World. Community Options denies the remaining allegations of the Paragraph.

37. Community Options denies the allegations contained in Paragraphs 47, 48, 49, 50, 51, 52, 53, 54, 55, and 56.

38. Answering the allegations contained in Paragraph 57, Community Options admits Sierra was to be picked up from Thistle CTH II and taken to Disney World. Community Options specifically denies that Sierra was covered in bruises from staff abuse. Community Options denies any remaining allegations of the Paragraph.

39. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraphs 58 and 59 and, therefore, denies the same and demands strict proof thereof.

40. Community Options denies the allegations contained in Paragraphs 60, 61, 62 and 63.

41. Answering the allegations contained in Paragraph 64, Community Options admits that on

January 2, 2023, Shirley Anderson took photos of Sierra. Community Options denies the remaining allegations of the Paragraph.

42. Answering the allegations contained in Paragraph 65, Community Options admits that on January 3, 2023, Shirley Anderson contacted the North Charleston Police Department, as required by law, regarding the events reported by Sierra. Community Options denies the remaining allegations of the Paragraph.

43. Answering the allegations contained in Paragraph 66, Community Options admits that the North Charleston Police Incident Report provides, “Anderson . . . states that on 12/28/22 at 4 PM, [Sierra’s] sister[,] Kirstee Criswell picked [her] up from 137 Thistle Rd, Goose Creek, dropped her off at 4908 Paddy Field Way to her parent[’]s house to visit[,]” and that, “[Sierra] was supposed to be returned to the CG2 House on 12/29/22, but the family didn’t return her until 12/30/22.” Community Options further craves reference to the pertinent records regarding Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Community Options denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Community Options denies the remaining allegations of the Paragraph.

44. Answering the allegations contained in Paragraph 67, Community Options admits that Joy returned Sierra to Thistle CTH II on December 31, 2022, instead of on December 30, 2022 as planned. Community Options denies the remaining allegations of the Paragraph.

45. Answering the allegations contained in Paragraph 68, Community Options craves reference to the North Charleston Police Incident Report, and it denies any allegations of the Paragraph that are inconsistent with and/or contrary to that report. Community Options further craves reference to the pertinent records regarding Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Community Options denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Community Options denies the remaining allegations of the Paragraph.

46. Answering the allegations contained in Paragraph 69, Community Options admits the

North Charleston Police Department did not substantiate allegations of abuse of Sierra. Community Options denies the remaining allegations of the Paragraph.

47. Community Options denies the allegations contained in Paragraph 70.

48. Answering the allegations contained in Paragraph 71, Community Options admits that on January 4, 2023, Angela Stuckey picked up Sierra from Active Day, and then, drove Sierra and another resident to Trident Medical Center in Charleston, South Carolina. Community Options denies the remaining allegations of the Paragraph.

49. Community Options denies the allegations contained in Paragraphs 72 and 73.

50. Answering the allegations contained in Paragraph 74, Community Options craves reference to the pertinent records of Sierra, and it denies any allegations of the Paragraph that are inconsistent with and/or contrary to the records.

51. Community Options denies the allegations contained in Paragraphs 75 and 76.

52. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraph 77 and, therefore, denies the same and demands strict proof thereof.

53. Answering the allegations contained in Paragraph 78, Community Options admits that on January 4, 2023, Alan Rose, Executive Director, advised Joy that contact with Sierra was not permitted during an investigation as required by policy. Community Options denies the remaining allegations of the Paragraph.

54. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraphs 79, 80, and 81 and, therefore, denies the same and demands strict proof thereof.

55. Community Options admits the allegations contained in Paragraph 82.

56. Community Options lacks sufficient information to form a belief as to the allegations contained in Paragraph 83 and, therefore, denies the same and demands strict proof thereof.

57. Community Options admits the allegations contained in Paragraph 84.

58. Answering the allegations contained in Paragraph 85, Community Options admits that on February 13, 2023, Joy removed Sierra from Thistle CTH II. Community Options lacks sufficient

information to form a belief as to the allegations contained in Paragraph 85 as to Joy's call with the Horry County Police Department and, therefore, denies the same and demands strict proof thereof. Community Options denies any remaining allegations of the Paragraph.

59. Community Options denies the allegations contained in Paragraph 86.

60. Answering the allegations contained in Paragraphs 87, 88, 89, 90, and 91, Community Options admits that on March 16, 2023, Sierra met with Mirand Clegg-Moore Varnon. Community Options craves reference to the pertinent records of Sierra regarding that meeting and denies any allegations of the Paragraphs that are inconsistent and/or contrary to the records.

AS TO THE FIRST CAUSE OF ACTION

61. Answering the allegations contained in Paragraph 92, Community Options reasserts its responses to the allegations contained in Paragraphs 1 through 91 as if fully set forth herein.

62. The allegations contained in Paragraphs 93 and 94 constitute legal conclusions to which no response is required. To the extent a response is required, Community Options denies the same and demands strict proof thereof.

63. Community Options denies the allegations contained in Paragraphs 95, 96, 97, 98, and 99.

64. Community Options denies each and every allegation of Plaintiffs' First Cause of Action not specifically admitted herein.

AS TO THE SECOND CAUSE OF ACTION

65. Answering the allegations contained in Paragraph 100, Community Options reasserts its responses to the allegations contained in Paragraphs 1 through 99 as if fully set forth herein.

66. The allegations contained in Paragraphs 101, 102, and 103 constitute legal conclusions to which no response is required. To the extent a response is required, Community Options denies the same and demands strict proof thereof.

67. Community Options denies the allegations contained in Paragraphs 104, 105, 106, and 107.

68. Community Options denies each and every allegation of Plaintiffs' Second Cause of Action not specifically admitted herein.

AS TO THE THIRD CAUSE OF ACTION

69. Answering the allegations contained in Paragraph 108, Community Options reasserts its responses to the allegations contained in Paragraphs 1 through 107 as if fully set forth herein.

70. The allegations contained in Paragraph 109 constitute legal conclusions to which no response is required. To the extent a response is required, Community Options denies the same and demands strict proof thereof.

71. Community Options denies the allegations contained in Paragraphs 110, 111, 112, 113, and 114.

72. Community Options denies each and every allegation of Plaintiffs' Third Cause of Action not specifically admitted herein.

AS TO THE FOURTH CAUSE OF ACTION

73. Answering the allegations contained in Paragraph 115, Community Options reasserts its responses to the allegations contained in Paragraphs 1 through 114 as if fully set forth herein.

74. The allegations contained in Paragraph 116 constitute legal conclusions to which no response is required. To the extent a response is required, Community Options denies the same and demands strict proof thereof.

75. Community Options denies the allegations contained in Paragraphs 117, 118, and 119.

76. Community Options denies each and every allegation of Plaintiffs' Fourth Cause of Action not specifically admitted herein.

77. The allegations contained in Paragraph 120 are not in compliance with SCRCP 8 which requires Plaintiffs to plead a short and plain statement of the facts and, therefore, no response is required. To the extent a response is required, Community Options denies the same and demands strict proof thereof.

78. Community Options denies the allegations and claims in the "WHEREFORE" Paragraph, including all claims for relief against Community Options, and all subparagraphs thereto.

79. Community Options denies each and every allegation of Plaintiffs' Complaint not specifically admitted herein.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Failure to State a Claim)

80. Plaintiffs' Complaint fails to state facts sufficient to constitute one or more causes of action against Community Options and, therefore, the Complaint should be dismissed pursuant to SCRCP 12(b)(6).

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Compliance with Standards of Care)

81. At all times relevant to the matters set forth in Plaintiffs' Complaint, Community Options complied with the generally accepted standards of care applicable to it under the same or similar circumstances at that time, and as a result thereof, Community Options is in no way liable for the matters set forth in Plaintiffs' Complaint.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Proximate Cause)

82. Further answering Plaintiffs' Complaint and as an affirmative defense, Community Options would allege that even if Community Options was negligent, as alleged in Plaintiffs' Complaint, which is specifically denied, the negligence of or attributable to Community Options is not a direct or proximate cause of any injury alleged by Plaintiffs and, therefore, Community Options is not liable for any damages allegedly sustained by Plaintiffs.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Bifurcation)

83. Pursuant to South Carolina law, Community Options demands that any claim for punitive damages be bifurcated/separated for the liability and actual damages evidence at the trial of this case.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Punitive Damages Unconstitutional)

84. Further answering Plaintiffs' Complaint and as an affirmative defense, Community Options would show the claim of Plaintiffs for punitive damages against Community Options cannot be sustained because any award of punitive damages under South Carolina law by a jury that (1) is not provided standards of sufficient clarity for determining the appropriateness and the appropriate size of the punitive

damages award, (2) is not adequately instructed on the limits of punitive damages imposed by the applicable principals of deterrence and punishment, (3) is not expressly prohibited from awarding punitive damages or determining the amount of an award of punitive damages in whole or in part on the basis of invidiously discriminatory characteristics including the resident wealth and corporate status of Community Options, (4) is permitted to award punitive damages under a standard for determining liability for punitive damages that is vague and arbitrary and does not define with sufficient clarity of the conduct or mental state that makes punitive damages permissible, and (5) is not subject to trial court and appellate court judicial review for reasonableness and furtherance of legitimate purposes on the basis of objective standards would violate this Community Options' due process and equal protection rights guaranteed by the 14th Amendment to the United States Constitution and by the South Carolina constitutional provisions providing for due process and equal protection and would be improper under the common law and public policies of the State of South Carolina.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Limitation of Punitive Damages)

85. Any punitive damages awarded in this case would be subject to the limitations described in S.C. Code Ann. § 15-32-530.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Intervening/Superseding Negligence of Others)

86. That the injury or damages allegedly suffered by Plaintiffs, if any, was due to, and caused by, and was the proximate result of, the intervening and superseding negligence, willfulness, wantonness, and recklessness of the Plaintiffs and/or others, and as such constitutes a complete defense to Plaintiffs' claims.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Negligence of Others)

87. Any injury or damages as alleged in Plaintiffs' Complaint were due to and caused solely by the actions of others and were not due to or caused by any negligence or act attributable to Community

Options and, as a result thereof, Community Options is in no way liable to Plaintiffs for the matters set forth in the Complaint.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Punitive Damages Not Applicable)

88. Community Options is not subject to a claim for punitive damages as a charitable organization pursuant to S.C. Code Ann. §33-56-170 and §15-78-120(b)

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Limitation of Damages)

89. Community Options is a charitable organization pursuant to S.C. Code Ann. §33-56-170 and §33-56-180, and any potential recovery is limited to the limitations on liability imposed by the South Carolina Tort Claims Act, S.C. Code Ann. §15-78-120.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Statement of Fact About an Individual)

90. Plaintiffs' claim for defamation fails as the alleged defamatory statements cannot reasonably be interpreted as stating facts about an individual.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Truth)

91. Plaintiffs' claim for defamation is barred by the complete defense of truth.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Obvious Defamatory Meaning)

92. Plaintiffs' cause of action for defamation *per se* fails as the defamatory meaning of one or more of the alleged statements is not obvious on the face of the statements.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Actual Malice)

93. Plaintiffs cause of action for defamation fails because Community Options did not act with actual malice.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Good Faith/Usual Course of Business/Reasonable Reliance)

94. Plaintiffs' claims against Community Options fail on the basis that at all times, it acted in good faith, in the usual course of business, and in reasonable reliance on others.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Immunity)

95. Plaintiffs' claims for defamation and defamation *per se* fail because Community Options is immune from liability pursuant to the protections under the Omnibus Adult Protection Act. S.C. Code Ann. § 43-35-75.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of True or False Statement)

96. Any statements that Community Options is alleged to have made constitute opinion or information relayed to it by Sierra and cannot be discerned as being true or false statements.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Absolute, Qualified, and/or Conditional Privilege)

97. Plaintiffs' cause of action for defamation fails as any alleged statements were made subject to an absolute, qualified, and/or conditional privilege, and Community Options did not exceed the scope of that privilege.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Civil Conspiracy)

98. Plaintiffs Complaint fails to state facts sufficient to constitute a cause of action of civil conspiracy and, therefore, Plaintiff's cause of action for civil conspiracy should be dismissed as a matter of law pursuant to SCRPC 12(b)(6). Further, Plaintiffs are precluded from recovering additional damages under conspiracy for the same acts for which relief was obtained under other causes of action.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Intent)

99. Some or all of the claims, causes of actions, and requests for relief in Plaintiffs' Complaint are barred, in whole or in part, as Community Options' actions were not intentional, malicious, egregious, in bad faith, or with willful or reckless indifference or disregard of any rights of Plaintiffs.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Statute of Limitations)

100. Plaintiffs' claims may be barred by the applicable statute of limitations.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Reservation and Non-Waiver)

101. Community Options reserves any additional affirmative defenses as may be revealed or become available to it during the course of its investigation and/or discovery in the case and are consistent with the South Carolina Rules of Civil Procedure.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Incorporation)

102. Community Options hereby incorporates and asserts all defenses, counterclaims, set-offs, and credits pled by any party to this action, to include any pleadings filed after this Answer, and specifically, without limitation, all defenses, counterclaims, set-offs, and credits pled to Plaintiffs' claims, to the extent not inconsistent with its Answer herein and its denial of liability of any kind.

WHEREFORE, having fully responded to Plaintiffs' Complaint, Community Options prays that Plaintiffs' Complaint be dismissed, with prejudice and without cost to Community Options, and for such other relief as this Court deems just and proper.

Respectfully submitted this 21st day of December 2023, in Charleston, South Carolina.

HALL BOOTH SMITH, P.C.

/s/ Ashley S. Heslop

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Counsel For Defendants

| | | |
|---|---|-------------------------------------|
| STATE OF SOUTH CAROLINA |) | IN THE COURT OF COMMON PLEAS |
| |) | CIVIL ACTION NO.: 2023-CP-08-03019 |
| COUNTY OF BERKELEY |) | |
| |) | |
| Joy D. Phillips individually and as guardian of |) | |
| Sierra A. Phillips, and James C. Phillips, |) | |
| |) | DEFENDANT SHIRLEY ANDERSON'S |
| Plaintiffs, |) | ANSWER TO COMPLAINT |
| |) | |
| vs. |) | (Jury Trial Demanded) |
| |) | |
| Community Options, Inc., Angela Stuckey, |) | |
| Shirley Anderson, and Willa Manigault, |) | |
| |) | |
| Defendants. |) | |
| |) | |

Defendant Shirley Anderson ("Anderson"), answering the Complaint of Plaintiffs, Joy D. Phillips individually and as guardian of Sierra A. Phillips, and James C. Phillips ("Plaintiffs"), alleges and says:

1. Anderson denies the allegations contained in the unnumbered Paragraphs.
2. The allegations contained in Paragraphs 1, 2 and 3 constitute legal conclusions to which no response is required. To the extent a response is required, Anderson denies the allegations and demands strict proof thereof.
3. Anderson lacks sufficient information to form a belief as to the allegations contained in Paragraphs 4 and 5 and, therefore, denies the same and demands strict proof thereof.
4. Anderson lacks sufficient information to form a belief as to the allegations contained in Paragraph 6 as to Sierra A. Phillips' ("Sierra") residence and citizenship and, therefore, denies the same and demands strict proof thereof. As to the remaining allegations, Anderson craves reference to the pertinent records of Sierra and denies any allegations of the Paragraph that are inconsistent with and/or contrary to the records.
5. The allegations contained in Paragraphs 7 and 8 are not directed to Anderson and, therefore, no response is required. To the extent a response is required, Anderson denies the same and demands strict proof thereof.
6. Answering the allegations contained in Paragraph 9, Anderson admits she is a resident and

citizen of the State of South Carolina and that she has been employed with Community Options, Inc., (“Community Options”) since September 16, 2022. Anderson denies the remaining allegations of the Paragraph.

7. The allegations contained in Paragraph 10 are not directed to Anderson and, therefore, no response is required. To the extent a response is required, Anderson denies the same and demands strict proof thereof.

8. Answering the allegations contained in Paragraph 11, Anderson admits that on/about October 5, 2017, Sierra moved into Thistle CTH II. Anderson denies the remaining allegations of the Paragraph.

9. Anderson denies the allegations contained in Paragraph 12.

10. Anderson lacks sufficient information to form a belief as to the allegations contained in Paragraph 13 and, therefore, denies the same and demands strict proof thereof.

11. Answering the allegations contained in Paragraph 14, Anderson admits that Sierra was in contact with her parents. Anderson denies the remaining allegations of the Paragraph.

12. Answering the allegations contained in Paragraph 15, Anderson admits that Community Options communicated with Joy D. Phillips (“Joy”) regarding Sierra. Anderson denies the remaining allegations of the Paragraph.

13. Answering the allegations contained in Paragraph 16, Anderson admits on March 13, 2020, President Trump declared a national emergency due to COVID-19, and that Governor McMaster signed an Executive Order declaring a state of emergency. Anderson denies the remaining allegations of the Paragraph.

14. Anderson lacks sufficient information to form a belief as to the allegations contained in Paragraph 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 33 and, therefore, denies the same and demands strict proof thereof.

15. Anderson denies the allegations contained in Paragraph 34, as stated, and demands strict proof thereof.

16. Anderson lacks sufficient information to form a belief as to the allegations contained in Paragraphs 35, 36, and 37 and, therefore, denies the same and demands strict proof thereof.

17. Answering the allegations contained in Paragraph 38, Anderson admits that on December 28, 2022, Sierra's sister picked Sierra up from Thistle CTH II and, upon information and belief, exchanged Seirra for a visit with Joy and Chris. Further, Anderson admits that Sierra did not have her tablet with her at that time. Anderson denies the remaining allegations of the Paragraph.

18. Answering the allegations contained in Paragraph 39, Anderson admits that Community Options purchased a new tablet for Sierra and that Sierra's old tablet was located. Anderson denies the remaining allegations in the Paragraph.

19. Anderson lacks sufficient information to form a belief as to the allegations contained in Paragraph 40 and, therefore, denies the same and demands strict proof thereof.

20. Answering the allegations contained in Paragraph 41, Anderson craves reference to the pertinent records of Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Anderson denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Anderson denies the remaining allegations of the Paragraph.

21. Due to the vague nature of the allegations contained in Paragraph 42, Anderson can neither admit nor deny the same. To the extent a response is required, Anderson denies the same and demands strict proof thereof.

22. Answering the allegations contained in Paragraphs 43 and 44, Anderson admits that Joy dropped Sierra off at Thistle CTH II on December 31, 2022, instead of on December 30, 2022, as planned. Anderson lacks sufficient information to form a belief as to the remaining allegations contained in Paragraphs 43 and 44 and, therefore, denies the same and demands strict proof thereof.

23. Answering the allegations contained in Paragraph 45, Anderson admits, upon information and belief, that Willa Manigault told Joy that Sierra had a new tablet. Anderson denies the remaining allegations of the Paragraph.

24. Answering the allegations contained in Paragraph 46, Anderson admits, upon information and belief, Joy told Willa Manigault on December 31, 2022, that she and Chris would pick Sierra up on January 8, 2023, for a trip to Disney World. Anderson denies the remaining allegations of the Paragraph.

25. Anderson denies the allegations contained in Paragraphs 47, 48, 49, 50, 51, 52, 53, 54, 55, and 56.

26. Answering the allegations contained in Paragraph 57, Anderson admits Sierra was to be picked up from Thistle CTH II and taken to Disney World. Anderson specifically denies that Sierra was covered in bruises from staff abuse. Anderson denies any remaining allegations of the Paragraph.

27. Anderson lacks sufficient information to form a belief as to the allegations contained in Paragraphs 58 and 59 and, therefore, denies the same and demands strict proof thereof.

28. Anderson denies the allegations contained in Paragraphs 60, 61, 62 and 63.

29. Answering the allegations contained in Paragraph 64, Anderson admits that on January 2, 2023, she took photos of Sierra. Anderson denies the remaining allegations of the Paragraph.

30. Answering the allegations contained in Paragraph 65, Anderson admits that on January 3, 2023, she contacted the North Charleston Police Department, as required by law, regarding the events reported by Sierra. Anderson denies the remaining allegations of the Paragraph.

31. Answering the allegations contained in Paragraph 66, Anderson admits that the North Charleston Police Incident Report provides, “Anderson . . . states that on 12/28/22 at 4 PM, [Sierra’s] sister[,] Kirstee Criswell picked [her] up from 137 Thistle Rd, Goose Creek, dropped her off at 4908 Paddy Field Way to her parent[’]s] house to visit[,]” and that, “[Sierra] was supposed to be returned to the CG2 House on 12/29/22, but the family didn’t return her until 12/30/22.” Anderson further craves reference to the pertinent records regarding Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Anderson denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Anderson denies the remaining allegations of the Paragraph.

32. Answering the allegations contained in Paragraph 67, Anderson admits that Joy returned

Sierra to Thistle CTH II on December 31, 2022, instead of on December 30, 2022 as planned. Anderson denies the remaining allegations of the Paragraph.

33. Answering the allegations contained in Paragraph 68, Anderson craves reference to the North Charleston Police Incident Report, and she denies any allegations of the Paragraph that are inconsistent with and/or contrary to that report. Anderson further craves reference to the pertinent records regarding Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Anderson denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Anderson denies the remaining allegations of the Paragraph.

34. Answering the allegations contained in Paragraph 69, Anderson admits the North Charleston Police Department did not substantiate allegations of abuse of Sierra. Anderson denies the remaining allegations of the Paragraph.

35. Anderson denies the allegations contained in Paragraph 70.

36. Answering the allegations contained in Paragraph 71, Anderson admits that on January 4, 2023, Angela Stuckey picked up Sierra from Active Day, and then, drove Sierra and another resident to Trident Medical Center in Charleston, South Carolina. Anderson denies the remaining allegations of the Paragraph.

37. Anderson denies the allegations contained in Paragraphs 72 and 73.

38. Answering the allegations contained in Paragraph 74, Anderson craves reference to the pertinent records of Sierra, and she denies any allegations of the Paragraph that are inconsistent with and/or contrary to the records.

39. Anderson denies the allegations contained in Paragraphs 75 and 76.

40. Anderson lacks sufficient information to form a belief as to the allegations contained in Paragraph 77 and, therefore, denies the same and demands strict proof thereof.

41. Answering the allegations contained in Paragraph 78, Anderson admits, upon information and belief, that on January 4, 2023, Alan Rose, Executive Director, advised Joy that contact with Sierra was

not permitted during an investigation as required by policy. Anderson denies the remaining allegations of the Paragraph.

42. Anderson lacks sufficient information to form a belief as to the allegations contained in Paragraphs 79, 80, and 81 and, therefore, denies the same and demands strict proof thereof.

43. Anderson admits the allegations contained in Paragraph 82.

44. Anderson lacks sufficient information to form a belief as to the allegations contained in Paragraph 83 and, therefore, denies the same and demands strict proof thereof.

45. Anderson admits the allegations contained in Paragraph 84.

46. Answering the allegations contained in Paragraph 85, Anderson admits that on February 13, 2023, Joy removed Sierra from Thistle CTH II. Anderson lacks sufficient information to form a belief as to the allegations contained in Paragraph 85 as to Joy's call with the Horry County Police Department and, therefore, denies the same and demands strict proof thereof. Anderson denies any remaining allegations of the Paragraph.

47. Anderson denies the allegations contained in Paragraph 86.

48. Answering the allegations contained in Paragraphs 87, 88, 89, 90, and 91, Anderson admits that on March 16, 2023, Sierra met with Miranda Clegg-Moore Varnon. Anderson craves reference to the pertinent records of Sierra regarding that meeting and denies any allegations of the Paragraphs that are inconsistent and/or contrary to the records.

AS TO THE FIRST CAUSE OF ACTION

49. Answering the allegations contained in Paragraph 92, Anderson reasserts her responses to the allegations contained in Paragraphs 1 through 91 as if fully set forth herein.

50. The allegations contained in Paragraphs 93 and 94 constitute legal conclusions to which no response is required. To the extent a response is required, Anderson denies the same and demands strict proof thereof.

51. Anderson denies the allegations contained in Paragraphs 95, 96, 97, 98, and 99.

52. Anderson denies each and every allegation of Plaintiffs' First Cause of Action not

specifically admitted herein.

AS TO THE SECOND CAUSE OF ACTION

53. Answering the allegations contained in Paragraph 100, Anderson reasserts her responses to the allegations contained in Paragraphs 1 through 99 as if fully set forth herein.

54. The allegations contained in Paragraphs 101, 102, and 103 constitute legal conclusions to which no response is required. To the extent a response is required, Anderson denies the same and demands strict proof thereof.

55. Anderson denies the allegations contained in Paragraphs 104, 105, 106, and 107.

56. Anderson denies each and every allegation of Plaintiffs' Second Cause of Action not specifically admitted herein.

AS TO THE THIRD CAUSE OF ACTION

57. Answering the allegations contained in Paragraph 108, Anderson reasserts her responses to the allegations contained in Paragraphs 1 through 107 as if fully set forth herein.

58. The allegations contained in Paragraph 109 constitute legal conclusions to which no response is required. To the extent a response is required, Anderson denies the same and demands strict proof thereof.

59. Anderson denies the allegations contained in Paragraphs 110, 111, 112, 113, and 114.

60. Anderson denies each and every allegation of Plaintiffs' Third Cause of Action not specifically admitted herein.

AS TO THE FOURTH CAUSE OF ACTION

61. Answering the allegations contained in Paragraph 115, Anderson reasserts her responses to the allegations contained in Paragraphs 1 through 114 as if fully set forth herein.

62. The allegations contained in Paragraph 116 constitute legal conclusions to which no response is required. To the extent a response is required, Anderson denies the same and demands strict proof thereof.

63. Anderson denies the allegations contained in Paragraphs 117, 118, and 119.

64. Anderson denies each and every allegation of Plaintiffs' Fourth Cause of Action not specifically admitted herein.

65. The allegations contained in Paragraph 120 are not in compliance with SCRCP 8 which requires Plaintiffs to plead a short and plain statement of the facts and, therefore, no response is required. To the extent a response is required, Anderson denies the same and demands strict proof thereof.

66. Anderson denies the allegations and claims in the "WHEREFORE" Paragraph, including all claims for relief against Anderson, and all subparagraphs thereto.

67. Anderson denies each and every allegation of Plaintiffs' Complaint not specifically admitted herein.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Failure to State a Claim)

68. Plaintiffs' Complaint fails to state facts sufficient to constitute one or more causes of action against Anderson and, therefore, the Complaint should be dismissed pursuant to SCRCP 12(b)(6).

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Compliance with Standards of Care)

69. At all times relevant to the matters set forth in Plaintiffs' Complaint, Anderson complied with the generally accepted standards of care applicable to her under the same or similar circumstances at that time, and as a result thereof, Anderson is in no way liable for the matters set forth in Plaintiffs' Complaint.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Proximate Cause)

70. Further answering Plaintiffs' Complaint and as an affirmative defense, Anderson would allege that even if Anderson was negligent, as alleged in Plaintiffs' Complaint, which is specifically denied, the negligence of or attributable to Anderson is not a direct or proximate cause of any injury alleged by Plaintiffs and, therefore, Anderson is not liable for any damages allegedly sustained by Plaintiffs.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Bifurcation)

71. Pursuant to South Carolina law, Anderson demands that any claim for punitive damages

be bifurcated/separated for the liability and actual damages evidence at the trial of this case.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Punitive Damages Unconstitutional)

72. Further answering Plaintiffs' Complaint and as an affirmative defense, Anderson would show the claim of Plaintiffs for punitive damages against Anderson cannot be sustained because any award of punitive damages under South Carolina law by a jury that (1) is not provided standards of sufficient clarity for determining the appropriateness and the appropriate size of the punitive damages award, (2) is not adequately instructed on the limits of punitive damages imposed by the applicable principals of deterrence and punishment, (3) is not expressly prohibited from awarding punitive damages or determining the amount of an award of punitive damages in whole or in part on the basis of invidiously discriminatory characteristics including the resident wealth and corporate status of Anderson, (4) is permitted to award punitive damages under a standard for determining liability for punitive damages that is vague and arbitrary and does not define with sufficient clarity of the conduct or mental state that makes punitive damages permissible, and (5) is not subject to trial court and appellate court judicial review for reasonableness and furtherance of legitimate purposes on the basis of objective standards would violate Anderson's due process and equal protection rights guaranteed by the 14th Amendment to the United States Constitution and by the South Carolina constitutional provisions providing for due process and equal protection and would be improper under the common law and public policies of the State of South Carolina.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Limitation of Punitive Damages)

73. Any punitive damages awarded in this case would be subject to the limitations described in S.C. Code Ann. § 15-32-530.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Intervening/Superseding Negligence of Others)

74. That the injury or damages allegedly suffered by Plaintiffs, if any, was due to, and caused by, and was the proximate result of, the intervening and superseding negligence, willfulness, wantonness,

and recklessness of the Plaintiffs and/or others, and as such constitutes a complete defense to Plaintiffs' claims.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Negligence of Others)

75. Any injury or damages as alleged in Plaintiffs' Complaint were due to and caused solely by the actions of others and were not due to or caused by any negligence or act attributable to Anderson and, as a result thereof, Anderson is in no way liable to Plaintiffs for the matters set forth in the Complaint.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Statement of Fact About an Individual)

76. Plaintiffs' claim for defamation fails as the alleged defamatory statements cannot reasonably be interpreted as stating facts about an individual.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Truth)

77. Plaintiffs' claim for defamation is barred by the complete defense of truth.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Obvious Defamatory Meaning)

78. Plaintiffs' cause of action for defamation *per se* fails as the defamatory meaning of one or more of the alleged statements is not obvious on the face of the statements.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Actual Malice)

79. Plaintiffs cause of action for defamation fails because Anderson did not act with actual malice.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Good Faith/Usual Course of Business/Reasonable Reliance)

80. Plaintiffs' claims against Anderson fail on the basis that at all times, she acted in good faith, in the usual course of business, and in reasonable reliance on others.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Immunity)

81. Plaintiffs' claims for defamation and defamation *per se* fail because Anderson is immune from liability pursuant to the protections under the Omnibus Adult Protection Act. S.C. Code Ann. § 43-35-75.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of True or False Statement)

82. Any statements that Anderson is alleged to have made constitute opinion or information relayed to it by Sierra and cannot be discerned as being true or false statements.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Absolute, Qualified, and/or Conditional Privilege)

83. Plaintiffs' cause of action for defamation fails as any alleged statements were made subject to an absolute, qualified, and/or conditional privilege, and Anderson did not exceed the scope of that privilege.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Civil Conspiracy)

84. Plaintiffs Complaint fails to state facts sufficient to constitute a cause of action of civil conspiracy and, therefore, Plaintiff's cause of action for civil conspiracy should be dismissed as a matter of law pursuant to SCRCP 12(b)(6). Further, Plaintiffs are precluded from recovering additional damages under conspiracy for the same acts for which relief was obtained under other causes of action.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Intent)

85. Some or all of the claims, causes of actions, and requests for relief in Plaintiffs' Complaint are barred, in whole or in part, as Anderson's actions were not intentional, malicious, egregious, in bad faith, or with willful or reckless indifference or disregard of any rights of Plaintiffs.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Acts Within Scope of Employment)

86. Plaintiffs' claims against Anderson fail because she acted within the scope and course of her employment at all times and, therefore, Anderson should be dismissed as a party defendant. S.C. Code Ann. § 33-56-80.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE

(Statute of Limitations)

87. Plaintiffs' claims may be barred by the applicable statute of limitations.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Reservation and Non-Waiver)

88. Anderson reserves any additional affirmative defenses as may be revealed or become available to her during the course of her investigation and/or discovery in the case and are consistent with the South Carolina Rules of Civil Procedure.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Incorporation)

89. Anderson hereby incorporates and asserts all defenses, counterclaims, set-offs, and credits pled by any party to this action, to include any pleadings filed after this Answer, and specifically, without limitation, all defenses, counterclaims, set-offs, and credits pled to Plaintiffs' claims, to the extent not inconsistent with her Answer herein and her denial of liability of any kind.

WHEREFORE, having fully responded to Plaintiffs' Complaint, Anderson prays that Plaintiffs' Complaint be dismissed, with prejudice and without cost to Anderson, and for such other relief as this Court deems just and proper.

Respectfully submitted this 21st day of December 2023, in Charleston, South Carolina.

HALL BOOTH SMITH, P.C.

/s/ Ashley S. Heslop

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Counsel For Defendants

| | | |
|---|---|------------------------------------|
| STATE OF SOUTH CAROLINA |) | IN THE COURT OF COMMON PLEAS |
| |) | CIVIL ACTION NO.: 2023-CP-08-03019 |
| COUNTY OF BERKELEY |) | |
| |) | |
| Joy D. Phillips individually and as guardian of |) | |
| Sierra A. Phillips, and James C. Phillips, |) | |
| |) | DEFENDANT WILLA MANIGAULT'S |
| Plaintiffs, |) | ANSWER TO COMPLAINT |
| |) | |
| vs. |) | (Jury Trial Demanded) |
| |) | |
| Community Options, Inc., Angela Stuckey, |) | |
| Shirley Anderson, and Willa Manigault, |) | |
| |) | |
| Defendants. |) | |
| |) | |

Defendant Willa Manigault ("Manigault"), answering the Complaint of Plaintiffs, Joy D. Phillips individually and as guardian of Sierra A. Phillips, and James C. Phillips ("Plaintiffs"), alleges and says:

1. Manigault denies the allegations contained in the unnumbered Paragraphs.
2. The allegations contained in Paragraphs 1, 2 and 3 constitute legal conclusions to which no response is required. To the extent a response is required, Manigault denies the allegations and demands strict proof thereof.
3. Manigault lacks sufficient information to form a belief as to the allegations contained in Paragraphs 4 and 5 and, therefore, denies the same and demands strict proof thereof.
4. Manigault lacks sufficient information to form a belief as to the allegations contained in Paragraph 6 as to Sierra A. Phillips' ("Sierra") residence and citizenship and, therefore, denies the same and demands strict proof thereof. As to the remaining allegations, Manigault craves reference to the pertinent records of Sierra and denies any allegations of the Paragraph that are inconsistent with and/or contrary to the records.
5. The allegations contained in Paragraphs 7, 8, and 9 are not directed to Manigault and, therefore, no response is required. To the extent a response is required, Manigault denies the same and demands strict proof thereof.
6. Answering the allegations contained in Paragraph 10, Manigault admits she is a resident

and citizen of the State of South Carolina and that she has been employed with Community Options, Inc., (“Community Options”) since October 7, 2022. Manigault denies the remaining allegations of the Paragraph.

7. Answering the allegations contained in Paragraph 11, Manigault admits that on/about October 5, 2017, Sierra moved into Thistle CTH II. Manigault denies the remaining allegations of the Paragraph.

8. Manigault denies the allegations contained in Paragraph 12.

9. Manigault lacks sufficient information to form a belief as to the allegations contained in Paragraph 13 and, therefore, denies the same and demands strict proof thereof.

10. Answering the allegations contained in Paragraph 14, Manigault admits that Sierra was in contact with her parents. Manigault denies the remaining allegations of the Paragraph.

11. Answering the allegations contained in Paragraph 15, Manigault admits that Community Options communicated with Joy D. Phillips (“Joy”) regarding Sierra. Manigault denies the remaining allegations of the Paragraph.

12. Answering the allegations contained in Paragraph 16, Manigault admits on March 13, 2020, President Trump declared a national emergency due to COVID-19, and that Governor McMaster signed an Executive Order declaring a state of emergency. Manigault denies the remaining allegations of the Paragraph.

13. Manigault lacks sufficient information to form a belief as to the allegations contained in Paragraph 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 33 and, therefore, denies the same and demands strict proof thereof.

14. Manigault denies the allegations contained in Paragraph 34, as stated, and demands strict proof thereof.

15. Manigault lacks sufficient information to form a belief as to the allegations contained in Paragraphs 35, 36, and 37 and, therefore, denies the same and demands strict proof thereof.

16. Answering the allegations contained in Paragraph 38, Manigault admits that on December

28, 2022, Sierra's sister picked Sierra up from Thistle CTH II and, upon information and belief, exchanged Sierra for a visit with Joy and Chris. Further, Manigault admits that Sierra did not have her tablet with her at that time. Manigault denies the remaining allegations of the Paragraph.

17. Answering the allegations contained in Paragraph 39, Manigault admits that Community Options purchased a new tablet for Sierra and that Sierra's old tablet was located. Manigault denies the remaining allegations in the Paragraph.

18. Manigault lacks sufficient information to form a belief as to the allegations contained in Paragraph 40 and, therefore, denies the same and demands strict proof thereof.

19. Answering the allegations contained in Paragraph 41, Manigault craves reference to the pertinent records of Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Manigault denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Manigault denies the remaining allegations of the Paragraph.

20. Due to the vague nature of the allegations contained in Paragraph 42, Manigault can neither admit nor deny the same. To the extent a response is required, Manigault denies the same and demands strict proof thereof.

21. Answering the allegations contained in Paragraphs 43 and 44, Manigault admits that Joy dropped Sierra off at Thistle CTH II on December 31, 2022, instead of on December 30, 2022, as planned. Manigault lacks sufficient information to form a belief as to the remaining allegations contained in Paragraphs 43 and 44 and, therefore, denies the same and demands strict proof thereof.

22. Answering the allegations contained in Paragraph 45, Manigault admits that she told Joy that Sierra had a new tablet. Manigault denies the remaining allegations of the Paragraph.

23. Answering the allegations contained in Paragraph 46, Manigault admits Joy told her on December 31, 2022, that she and Chris would pick Sierra up on January 8, 2023, for a trip to Disney World. Manigault denies the remaining allegations of the Paragraph.

24. Manigault denies the allegations contained in Paragraphs 47, 48, 49, 50, 51, 52, 53, 54, 55,

and 56.

25. Answering the allegations contained in Paragraph 57, Manigault admits Sierra was to be picked up from Thistle CTH II and taken to Disney World. Manigault specifically denies that Sierra was covered in bruises from staff abuse. Manigault denies any remaining allegations of the Paragraph.

26. Manigault lacks sufficient information to form a belief as to the allegations contained in Paragraphs 58 and 59 and, therefore, denies the same and demands strict proof thereof.

27. Manigault denies the allegations contained in Paragraphs 60, 61, 62 and 63.

28. Answering the allegations contained in Paragraph 64, Manigault admits that on January 2, 2023, Shirley Anderson took photos of Sierra. Manigault denies the remaining allegations of the Paragraph.

29. Answering the allegations contained in Paragraph 65, Manigault admits that on January 3, 2023, Shirley Anderson contacted the North Charleston Police Department, as required by law, regarding the events reported by Sierra. Manigault denies the remaining allegations of the Paragraph.

30. Answering the allegations contained in Paragraph 66, Manigault admits that the North Charleston Police Incident Report provides, “Anderson . . . states that on 12/28/22 at 4 PM, [Sierra’s] sister[,] Kirstee Criswell picked [her] up from 137 Thistle Rd, Goose Creek, dropped her off at 4908 Paddy Field Way to her parent[’]s house to visit[,]” and that, “[Sierra] was supposed to be returned to the CG2 House on 12/29/22, but the family didn’t return her until 12/30/22.” Manigault further craves reference to the pertinent records regarding Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Manigault denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Manigault denies the remaining allegations of the Paragraph.

31. Answering the allegations contained in Paragraph 67, Manigault admits that Joy returned Sierra to Thistle CTH II on December 31, 2022, instead of on December 30, 2022 as planned. Manigault denies the remaining allegations of the Paragraph.

32. Answering the allegations contained in Paragraph 68, Manigault craves reference to the North Charleston Police Incident Report, and she denies any allegations of the Paragraph that are

inconsistent with and/or contrary to that report. Manigault further craves reference to the pertinent records regarding Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Manigault denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Manigault denies the remaining allegations of the Paragraph.

33. Answering the allegations contained in Paragraph 69, Manigault admits the North Charleston Police Department did not substantiate allegations of abuse of Sierra. Manigault denies the remaining allegations of the Paragraph.

34. Manigault denies the allegations contained in Paragraph 70.

35. Answering the allegations contained in Paragraph 71, Manigault admits that on January 4, 2023, Angela Stuckey picked up Sierra from Active Day, and then, drove Sierra and another resident to Trident Medical Center in Charleston, South Carolina. Manigault denies the remaining allegations of the Paragraph.

36. Manigault denies the allegations contained in Paragraphs 72 and 73.

37. Answering the allegations contained in Paragraph 74, Manigault craves reference to the pertinent records of Sierra, and she denies any allegations of the Paragraph that are inconsistent with and/or contrary to the records.

38. Manigault denies the allegations contained in Paragraphs 75 and 76.

39. Manigault lacks sufficient information to form a belief as to the allegations contained in Paragraph 77 and, therefore, denies the same and demands strict proof thereof.

40. Answering the allegations contained in Paragraph 78, Manigault admits, upon information and belief, that on January 4, 2023, Alan Rose, Executive Director, advised Joy that contact with Sierra was not permitted during an investigation as required by policy. Manigault denies the remaining allegations of the Paragraph.

41. Manigault lacks sufficient information to form a belief as to the allegations contained in Paragraphs 79, 80, and 81 and, therefore, denies the same and demands strict proof thereof.

42. Manigault admits the allegations contained in Paragraph 82.

43. Manigault lacks sufficient information to form a belief as to the allegations contained in Paragraph 83 and, therefore, denies the same and demands strict proof thereof.

44. Manigault admits the allegations contained in Paragraph 84.

45. Answering the allegations contained in Paragraph 85, Manigault admits that on February 13, 2023, Joy removed Sierra from Thistle CTH II. Manigault lacks sufficient information to form a belief as to the allegations contained in Paragraph 85 as to Joy's call with the Horry County Police Department and, therefore, denies the same and demands strict proof thereof. Manigault denies any remaining allegation of the Paragraph.

46. Manigault denies the allegations contained in Paragraph 86.

47. Answering the allegations contained in Paragraphs 87, 88, 89, 90, and 91, Manigault admits that on March 16, 2023, Sierra met with Miranda Clegg-Moore Varnon. Manigault craves to the pertinent records of Sierra regarding that meeting and denies any allegations of the Paragraphs that are inconsistent and/or contrary to the records.

AS TO THE FIRST CAUSE OF ACTION

48. Answering the allegations contained in Paragraph 92, Manigault reasserts her responses to the allegations contained in Paragraphs 1 through 91 as if fully set forth herein.

49. The allegations contained in Paragraphs 93 and 94 constitute legal conclusions to which no response is required. To the extent a response is required, Manigault denies the same and demands strict proof thereof.

50. Manigault denies the allegations contained in Paragraphs 95, 96, 97, 98, and 99.

51. Manigault denies each and every allegation of Plaintiffs' First Cause of Action not specifically admitted herein.

AS TO THE SECOND CAUSE OF ACTION

52. Answering the allegations contained in Paragraph 100, Manigault reasserts her responses to the allegations contained in Paragraphs 1 through 99 as if fully set forth herein.

53. The allegations contained in Paragraphs 101, 102, and 103 constitute legal conclusions to which no response is required. To the extent a response is required, Manigault denies the same and demands strict proof thereof.

54. Manigault denies the allegations contained in Paragraphs 104, 105, 106, and 107.

55. Manigault denies each and every allegation of Plaintiffs' Second Cause of Action not specifically admitted herein.

AS TO THE THIRD CAUSE OF ACTION

56. Answering the allegations contained in Paragraph 108, Manigault reasserts her responses to the allegations contained in Paragraphs 1 through 107 as if fully set forth herein.

57. The allegations contained in Paragraph 109 constitute legal conclusions to which no response is required. To the extent a response is required, Manigault denies the same and demands strict proof thereof.

58. Manigault denies the allegations contained in Paragraphs 110, 111, 112, 113, and 114.

59. Manigault denies each and every allegation of Plaintiffs' Third Cause of Action not specifically admitted herein.

AS TO THE FOURTH CAUSE OF ACTION

60. Answering the allegations contained in Paragraph 115, Manigault reasserts her responses to the allegations contained in Paragraphs 1 through 114 as if fully set forth herein.

61. The allegations contained in Paragraph 116 constitute legal conclusions to which no response is required. To the extent a response is required, Manigault denies the same and demands strict proof thereof.

62. Manigault denies the allegations contained in Paragraphs 117, 118, and 119.

63. Manigault denies each and every allegation of Plaintiffs' Fourth Cause of Action not specifically admitted herein.

64. The allegations contained in Paragraph 120 are not in compliance with SCRCP 8 which requires Plaintiffs to plead a short and plain statement of the facts and, therefore, no response is required.

To the extent a response is required, Manigault denies the same and demands strict proof thereof.

65. Manigault denies the allegations and claims in the “WHEREFORE” Paragraph, including all claims for relief against Manigault, and all subparagraphs thereto.

66. Manigault denies each and every allegation of Plaintiffs’ Complaint not specifically admitted herein.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Failure to State a Claim)

67. Plaintiffs’ Complaint fails to state facts sufficient to constitute one or more cause of action against Manigault and, therefore, the Complaint should be dismissed pursuant to SCRCP 12(b)(6).

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Compliance with Standards of Care)

68. At all times relevant to the matters set forth in Plaintiffs’ Complaint, Manigault complied with the generally accepted standards of care applicable to her under the same or similar circumstances at that time, and as a result thereof, Manigault is in no way liable for the matters set forth in Plaintiffs’ Complaint.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Proximate Cause)

69. Further answering Plaintiffs’ Complaint and as an affirmative defense, Manigault would allege that even if Manigault was negligent, as alleged in Plaintiffs’ Complaint, which is specifically denied, the negligence of or attributable to Manigault is not a direct or proximate cause of any injury alleged by Plaintiffs and, therefore, Manigault is not liable for any damages allegedly sustained by Plaintiffs.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Bifurcation)

70. Pursuant to South Carolina law, Manigault demands that any claim for punitive damages be bifurcated/separated for the liability and actual damages evidence at the trial of this case.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Punitive Damages Unconstitutional)

71. Further answering Plaintiffs’ Complaint and as an affirmative defense, Manigault would

show the claim of Plaintiffs for punitive damages against Manigault cannot be sustained because any award of punitive damages under South Carolina law by a jury that (1) is not provided standards of sufficient clarity for determining the appropriateness and the appropriate size of the punitive damages award, (2) is not adequately instructed on the limits of punitive damages imposed by the applicable principals of deterrence and punishment, (3) is not expressly prohibited from awarding punitive damages or determining the amount of an award of punitive damages in whole or in part on the basis of invidiously discriminatory characteristics including the resident wealth and corporate status of Manigault, (4) is permitted to award punitive damages under a standard for determining liability for punitive damages that is vague and arbitrary and does not define with sufficient clarity of the conduct or mental state that makes punitive damages permissible, and (5) is not subject to trial court and appellate court judicial review for reasonableness and furtherance of legitimate purposes on the basis of objective standards would violate Manigault's due process and equal protection rights guaranteed by the 14th Amendment to the United States Constitution and by the South Carolina constitutional provisions providing for due process and equal protection and would be improper under the common law and public policies of the State of South Carolina.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Limitation of Punitive Damages)

72. Any punitive damages awarded in this case would be subject to the limitations described in S.C. Code Ann. § 15-32-530.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Intervening/Superseding Negligence of Others)

73. That the injury or damages allegedly suffered by Plaintiffs, if any, was due to, and caused by, and was the proximate result of, the intervening and superseding negligence, willfulness, wantonness, and recklessness of the Plaintiffs and/or others, and as such constitutes a complete defense to Plaintiffs' claims.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Negligence of Others)

74. Any injury or damages as alleged in Plaintiffs' Complaint were due to and caused solely by the actions of others and were not due to or caused by any negligence or act attributable to Manigault and, as a result thereof, Manigault is in no way liable to Plaintiffs for the matters set forth in the Complaint.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Statement of Fact About an Individual)

75. Plaintiffs' claim for defamation fails as the alleged defamatory statements cannot reasonably be interpreted as stating facts about an individual.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Truth)

76. Plaintiffs' claim for defamation is barred by the complete defense of truth.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Obvious Defamatory Meaning)

77. Plaintiffs' cause of action for defamation *per se* fails as the defamatory meaning of one or more of the alleged statements is not obvious on the face of the statements.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Actual Malice)

78. Plaintiffs cause of action for defamation fails because Manigault did not act with actual malice.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Good Faith/Usual Course of Business/Reasonable Reliance)

79. Plaintiffs' claims against Manigault fail on the basis that at all times, she acted in good faith, in the usual course of business, and in reasonable reliance on others.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Immunity)

80. Plaintiffs' claims for defamation and defamation *per se* fail because Manigault is immune from liability pursuant to the protections under the Omnibus Adult Protection Act. S.C. Code Ann. § 43-35-75.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of True or False Statement)

81. Any statements that Manigault is alleged to have made constitute opinion or information relayed to it by Sierra and cannot be discerned as being true or false statements.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Absolute, Qualified, and/or Conditional Privilege)

82. Plaintiffs' cause of action for defamation fails as any alleged statements were made subject to an absolute, qualified, and/or conditional privilege, and Manigault did not exceed the scope of that privilege.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Civil Conspiracy)

83. Plaintiffs Complaint fails to state facts sufficient to constitute a cause of action of civil conspiracy and, therefore, Plaintiff's cause of action for civil conspiracy should be dismissed as a matter of law pursuant to SCRCP 12(b)(6). Further, Plaintiffs are precluded from recovering additional damages under conspiracy for the same acts for which relief was obtained under other causes of action.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Intent)

84. Some or all of the claims, causes of actions, and requests for relief in Plaintiffs' Complaint are barred, in whole or in part, as Manigault's actions were not intentional, malicious, egregious, in bad faith, or with willful or reckless indifference or disregard of any rights of Plaintiffs.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Acts Within Scope of Employment)

85. Plaintiffs' claims against Manigault fail because she acted within the scope and course of her employment at all times and, therefore, Manigault should be dismissed as a party defendant. S.C. Code Ann. § 33-56-80.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Statute of Limitations)

86. Plaintiffs' claims may be barred by the applicable statute of limitations.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Reservation and Non-Waiver)

87. Manigault reserves any additional affirmative defenses as may be revealed or become available to her during the course of its investigation and/or discovery in the case and are consistent with the South Carolina Rules of Civil Procedure.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Incorporation)

88. Manigault hereby incorporates and asserts all defenses, counterclaims, set-offs, and credits pled by any party to this action, to include any pleadings filed after this Answer, and specifically, without limitation, all defenses, counterclaims, set-offs, and credits pled to Plaintiffs' claims, to the extent not inconsistent with its Answer herein and its denial of liability of any kind.

WHEREFORE, having fully responded to Plaintiffs' Complaint, Manigault prays that Plaintiffs' Complaint be dismissed, with prejudice and without cost to Manigault, and for such other relief as this Court deems just and proper.

Respectfully submitted this 21st day of December 2023, in Charleston, South Carolina.

HALL BOOTH SMITH, P.C.

/s/ Ashley S. Heslop

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Counsel For Defendants

| | | |
|---|---|------------------------------------|
| STATE OF SOUTH CAROLINA |) | IN THE COURT OF COMMON PLEAS |
| |) | CIVIL ACTION NO.: 2023-CP-08-03019 |
| COUNTY OF BERKELEY |) | |
| |) | |
| Joy D. Phillips individually and as guardian of |) | |
| Sierra A. Phillips, and James C. Phillips, |) | |
| |) | DEFENDANT ANGELA STUCKEY'S |
| Plaintiffs, |) | ANSWER TO COMPLAINT |
| |) | |
| vs. |) | (Jury Trial Demanded) |
| |) | |
| Community Options, Inc., Angela Stuckey, |) | |
| Shirley Anderson, and Willa Manigault, |) | |
| |) | |
| Defendants. |) | |
| |) | |

Defendant Angela Stuckey ("Stuckey"), answering the Complaint of Plaintiffs, Joy D. Phillips individually and as guardian of Sierra A. Phillips, and James C. Phillips ("Plaintiffs"), alleges and says:

1. Stuckey denies the allegations contained in the unnumbered Paragraphs.
2. The allegations contained in Paragraphs 1, 2 and 3 constitute legal conclusions to which no response is required. To the extent a response is required, Stuckey denies the allegations and demands strict proof thereof.
3. Stuckey lacks sufficient information to form a belief as to the allegations contained in Paragraphs 4 and 5 and, therefore, denies the same and demands strict proof thereof.
4. Stuckey lacks sufficient information to form a belief as to the allegations contained in Paragraph 6 as to Sierra A. Phillips' ("Sierra") residence and citizenship and, therefore, denies the same and demands strict proof thereof. As to the remaining allegations, Stuckey craves reference to the pertinent records of Sierra and denies any allegations of the Paragraph that are inconsistent with and/or contrary to the records.
5. The allegations contained in Paragraph 7 are not directed to Stuckey and, therefore no response is required. To the extent a response is required, Stuckey denies the same and demands strict proof thereof.
6. Answering the allegations contained in Paragraph 8, Stuckey admits she is a resident and

citizen of South Carolina, and that she has been employed with Community Options, Inc., (“Community Options”) since December 15, 2021. Stuckey denies the remaining allegations of the Paragraph.

7. The allegations contained in Paragraphs 9, and 10 are not directed to Stuckey and, therefore, no response is required. To the extent a response is required, Stuckey denies the same and demands strict proof thereof.

8. Answering the allegations contained in Paragraph 11, Stuckey admits that on/about October 5, 2017, Seirra moved into Thistle CTH II. Stuckey denies the remaining allegations of the Paragraph.

9. Stuckey denies the allegations contained in Paragraph 12.

10. Stuckey lacks sufficient information to form a belief as to the allegations contained in Paragraph 13 and, therefore, denies the same and demands strict proof thereof.

11. Answering the allegations contained in Paragraph 14, Stuckey admits that Sierra was in contact with her parents. Stuckey denies the remaining allegations of the Paragraph.

12. Answering the allegations contained in Paragraph 15, Stuckey admits that Community Options communicated with Joy D. Phillips (“Joy”) regarding Sierra. Stuckey denies the remaining allegations of the Paragraph.

13. Answering the allegations contained in Paragraph 16, Stuckey admits on March 13, 2020, President Trump declared a national emergency due to COVID-19, and that Governor McMaster signed an Executive Order declaring a state of emergency. Stuckey denies the remaining allegations of the Paragraph.

14. Stuckey lacks sufficient information to form a belief as to the allegations contained in Paragraphs 17, 18, 19, 20, 21, 22, 23, 24, and 25 and, therefore, denies the same and demands strict proof thereof.

15. Answering the allegations contained in Paragraph 26, Stuckey admits, upon information and belief, that Joy and James C. Phillips (“Chris”) took Sierra to Myrtle Beach on December 26, 2021 through December 29, 2021. Stuckey denies the remaining allegations of the Paragraph.

16. Stuckey lacks sufficient information to form a belief as to the allegations contained in

Paragraphs 27 and 28 and, therefore, denies the same and demands strict proof thereof.

17. Answering the allegations contained in Paragraph 29, Stuckey admits Joy and Chris visited Sierra on February 18, 2022, and that Joy and Chris reported the smoke detector in Sierra's room was beeping. Stuckey further craves reference to the pertinent records regarding Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Stuckey denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Stuckey denies the remaining allegations of the Paragraph.

18. Stuckey can neither admit nor deny the allegations contained in Paragraph 30 due to privacy concerns protected by state and federal law. To the extent a response is required, Stuckey denies the same and demands strict proof thereof.

19. Stuckey denies the allegations contained in Paragraph 31, as stated, and demands strict proof thereof.

20. Answering the allegations contained in Paragraph 32, Stuckey admits that she became the Group Home Manager on July 1, 2022. Stuckey denies the remaining allegations of the Paragraph.

21. Stuckey lacks sufficient information to form a belief as to the allegations contained in Paragraph 33 and, therefore, denies the same and demands strict proof thereof.

22. Stuckey denies the allegations contained in Paragraph 34, as stated, and demands strict proof thereof.

23. Stuckey lacks sufficient information to form a belief as to the allegations contained in Paragraphs 35, 36, and 37 and, therefore, denies the same and demands strict proof thereof.

24. Answering the allegations contained in Paragraph 38, Stuckey admits that on December 28, 2022, Sierra's sister picked Sierra up from Thistle CTH II and, upon information and belief, exchanged Seirra for a visit with Joy and Chris. Further, Stuckey admits that Sierra did not have her tablet with her at that time. Stuckey denies the remaining allegations of the Paragraph.

25. Answering the allegations contained in Paragraph 39, Stuckey admits that Community Options purchased a new tablet for Sierra and that Sierra's old tablet was located. Stuckey denies the

remaining allegations of the Paragraph.

26. Stuckey lacks sufficient information to form a belief as to the allegations contained in Paragraph 40 and, therefore, denies the same and demands strict proof thereof.

27. Answering the allegations contained in Paragraph 41, Stuckey craves reference to the pertinent records of Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Stuckey denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Stuckey denies the remaining allegations of the Paragraph.

28. Due to the vague nature of the allegations contained in Paragraph 42, Stuckey can neither admit nor deny the same. To the extent a response is required, Stuckey denies the same and demands strict proof thereof.

29. Answering the allegations contained in Paragraphs 43 and 44, Stuckey admits that Joy dropped Sierra off at Thistle CTH II on December 31, 2022, instead of on December 30, 2022, as planned. Stuckey lacks sufficient information to form a belief as to the remaining allegations contained in Paragraphs 43 and 44 and, therefore, denies the same and demands strict proof thereof.

30. Answering the allegations contained in Paragraph 45, Stuckey admits, upon information and belief, that Willa Manigault told Joy that Sierra had a new tablet. Stuckey denies the remaining allegations of the Paragraph.

31. Answering the allegations contained in Paragraph 46, Stuckey admits, upon information and belief, that Joy told Willa Manigault on December 31, 2022, that she and Chris would pick Sierra up on January 8, 2023, for a trip to Disney World. Stuckey denies the remaining allegations of the Paragraph.

32. Stuckey denies the allegations contained in Paragraphs 47, 48, 49, 50, 51, 52, 53, 54, 55, and 56.

33. Answering the allegations contained in Paragraph 57, Stuckey admits Sierra was to be picked up from Thistle CTH II and taken to Disney World. Stuckey specifically denies that Sierra was covered in bruises from staff abuse. Stuckey denies any remaining allegations of the Paragraph.

34. Stuckey lacks sufficient information to form a belief as to the allegations contained in Paragraphs 58 and 59 and, therefore, denies the same and demands strict proof thereof.

35. Stuckey denies the allegations contained in Paragraphs 60, 61, 62 and 63.

36. Answering the allegations contained in Paragraph 64, Stuckey admits that on January 2, 2023, Shirley Anderson took photos of Sierra. Stuckey denies the remaining allegations of the Paragraph.

37. Answering the allegations contained in Paragraph 65, Stuckey admits that on January 3, 2023, Shirley Anderson contacted the North Charleston Police Department, as required by law, regarding the events reported by Sierra. Stuckey denies the remaining allegations of the Paragraph.

38. Answering the allegations contained in Paragraph 66, Stuckey admits that the North Charleston Police Incident Report provides, “Anderson . . . states that on 12/28/22 at 4 PM, [Sierra’s] sister[,] Kirstee Criswell picked [her] up from 137 Thistle Rd, Goose Creek, dropped her off at 4908 Paddy Field Way to her parent[’s] house to visit[,]” and that, “[Sierra] was supposed to be returned to the CG2 House on 12/29/22, but the family didn’t return her until 12/30/22.” Stuckey further craves reference to the pertinent records regarding Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Stuckey denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Stuckey denies the remaining allegations of the Paragraph.

39. Answering the allegations contained in Paragraph 67, Stuckey admits that Joy returned Sierra to Thistle CTH II on December 31, 2022, instead of on December 30, 2022 as planned. Stuckey denies the remaining allegations of the Paragraph.

40. Answering the allegations contained in Paragraph 68, Stuckey craves reference to the North Charleston Police Incident Report, and denies any allegations of the Paragraph that are inconsistent with and/or contrary to that report. Stuckey further craves reference to the pertinent records regarding Sierra and the anticipated testimony of individuals with personal knowledge of the events involving Sierra. Stuckey denies any allegations of the Paragraph that are inconsistent with and/or contrary to this response and/or the records and/or the testimony of witnesses. Stuckey denies the remaining allegations of the Paragraph.

41. Answering the allegations contained in Paragraph 69, Stuckey admits the North Charleston Police Department did not substantiate allegations of abuse of Sierra. Stuckey denies the remaining allegations of the Paragraph.

42. Stuckey denies the allegations contained in Paragraph 70.

43. Answering the allegations contained in Paragraph 71, Stuckey admits that on January 4, 2023, she picked up Sierra from Active Day, and then, drove Sierra and another resident to Trident Medical Center in Charleston, South Carolina. Stuckey denies the remaining allegations of the Paragraph.

44. Stuckey denies the allegations contained in Paragraphs 72 and 73.

45. Answering the allegations contained in Paragraph 74, Stuckey craves reference to the pertinent records of Sierra, and she denies any allegations of the Paragraph that are inconsistent with and/or contrary to the records.

46. Stuckey denies the allegations contained in Paragraphs 75 and 76.

47. Stuckey lacks sufficient information to form a belief as to the allegations contained in Paragraph 77 and, therefore, denies the same and demands strict proof thereof.

48. Answering the allegations contained in Paragraph 78, Stuckey admits that on January 4, 2023, Alan Rose, Executive Director, advised Joy that contact with Sierra was not permitted during an investigation as required by policy. Stuckey denies the remaining allegations of the Paragraph.

49. Stuckey lacks sufficient information to form a belief as to the allegations contained in Paragraphs 79, 80, and 81 and, therefore, denies the same and demands strict proof thereof.

50. Stuckey admits the allegations contained in Paragraph 82.

51. Stuckey lacks sufficient information to form a belief as to the allegations contained in Paragraph 83 and, therefore, denies the same and demands strict proof thereof.

52. Stuckey admits the allegations contained in Paragraph 84.

53. Answering the allegations contained in Paragraph 85, Stuckey admits that on February 13, 2023, Joy removed Sierra from Thistle CTH II. Stuckey lacks sufficient information to form a belief as to the allegations contained in Paragraph 85 as to Joy's call with the Horry County Police Department and,

therefore, denies the same and demands strict proof thereof. Stuckey denies any remaining allegation of the Paragraph.

54. Stuckey denies the allegations contained in Paragraph 86.

55. Answering the allegations contained in Paragraphs 87, 88, 89, 90, and 91, Stuckey admits that on March 16, 2023, Sierra met with Miranda Clegg-Moore Varnon. Stuckey craves reference to the pertinent records of Sierra regarding that meeting and denies any allegations of the Paragraphs that are inconsistent and/or contrary to the records.

AS TO THE FIRST CAUSE OF ACTION

56. Answering the allegations contained in Paragraph 92, Stuckey reasserts her responses to the allegations contained in Paragraphs 1 through 91 as if fully set forth herein.

57. The allegations contained in Paragraphs 93 and 94 constitute legal conclusions to which no response is required. To the extent a response is required, Stuckey denies the same and demands strict proof thereof.

58. Stuckey denies the allegations contained in Paragraphs 95, 96, 97, 98, and 99.

59. Stuckey denies each and every allegation of Plaintiffs' First Cause of Action not specifically admitted herein.

AS TO THE SECOND CAUSE OF ACTION

60. Answering the allegations contained in Paragraph 100, Stuckey reasserts her responses to the allegations contained in Paragraphs 1 through 99 as if fully set forth herein.

61. The allegations contained in Paragraphs 101, 102, and 103 constitute legal conclusions to which no response is required. To the extent a response is required, Stuckey denies the same and demands strict proof thereof.

62. Stuckey denies the allegations contained in Paragraphs 104, 105, 106, and 107.

63. Stuckey denies each and every allegation of Plaintiffs' Second Cause of Action not specifically admitted herein.

AS TO THE THIRD CAUSE OF ACTION

64. Answering the allegations contained in Paragraph 108, Stuckey reasserts her responses to the allegations contained in Paragraphs 1 through 107 as if fully set forth herein.

65. The allegations contained in Paragraph 109 constitute legal conclusions to which no response is required. To the extent a response is required, Stuckey denies the same and demands strict proof thereof.

66. Stuckey denies the allegations contained in Paragraphs 110, 111, 112, 113, and 114.

67. Stuckey denies each and every allegation of Plaintiffs' Third Cause of Action not specifically admitted herein.

AS TO THE FOURTH CAUSE OF ACTION

68. Answering the allegations contained in Paragraph 115, Stuckey reasserts her responses to the allegations contained in Paragraphs 1 through 114 as if fully set forth herein.

69. The allegations contained in Paragraph 116 constitute legal conclusions to which no response is required. To the extent a response is required, Stuckey denies the same and demands strict proof thereof.

70. Stuckey denies the allegations contained in Paragraphs 117, 118, and 119.

71. Stuckey denies each and every allegation of Plaintiffs' Fourth Cause of Action not specifically admitted herein.

72. The allegations contained in Paragraph 120 are not in compliance with SCRCP 8 which requires Plaintiffs to plead a short and plain statement of the facts and, therefore, no response is required. To the extent a response is required, Stuckey denies the same and demands strict proof thereof.

73. Stuckey denies the allegations and claims in the "WHEREFORE" Paragraph, including all claims for relief against Stuckey, and all subparagraphs thereto.

74. Stuckey denies each and every allegation of Plaintiffs' Complaint not specifically admitted herein.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE **(Limitation of Punitive Damages)**

75. Any punitive damages awarded in this case would be subject to the limitations described in S.C. Code Ann. § 15-32-530.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Intervening/Superseding Negligence of Others)

76. That the injury or damages allegedly suffered by Plaintiffs, if any, was due to, and caused by, and was the proximate result of, the intervening and superseding negligence, willfulness, wantonness, and recklessness of the Plaintiffs and/or others, and as such constitutes a complete defense to Plaintiffs' claims.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Negligence of Others)

77. Any injury or damages as alleged in Plaintiffs' Complaint were due to and caused solely by the actions of others and were not due to or caused by any negligence or act attributable to Stuckey and, as a result thereof, Stuckey is in no way liable to Plaintiffs for the matters set forth in the Complaint.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Statement of Fact About an Individual)

78. Plaintiffs' claim for defamation fails as the alleged defamatory statements cannot reasonably be interpreted as stating facts about an individual.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Truth)

79. Plaintiffs' claim for defamation is barred by the complete defense of truth.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Obvious Defamatory Meaning)

80. Plaintiffs' cause of action for defamation *per se* fails as the defamatory meaning of one or more of the alleged statements is not obvious on the face of the statements.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Actual Malice)

81. Plaintiffs cause of action for defamation fails because Stuckey did not act with actual malice.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE

(Good Faith/Usual Course of Business/Reasonable Reliance)

82. Plaintiffs' claims against Stuckey fail on the basis that at all times, she acted in good faith, in the usual course of business, and in reasonable reliance on others.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Immunity)

83. Plaintiffs' claims for defamation and defamation *per se* fail because Stuckey is immune from liability pursuant to the protections under the Omnibus Adult Protection Act. S.C. Code Ann. § 43-35-75.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of True or False Statement)

84. Any statements that Stuckey is alleged to have made constitute opinion or information relayed to it by Sierra and cannot be discerned as being true or false statements.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Absolute, Qualified, and/or Conditional Privilege)

85. Plaintiffs' cause of action for defamation fails as any alleged statements were made subject to an absolute, qualified, and/or conditional privilege, and Stuckey did not exceed the scope of that privilege.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Civil Conspiracy)

86. Plaintiffs Complaint fails to state facts sufficient to constitute a cause of action of civil conspiracy and, therefore, Plaintiff's cause of action for civil conspiracy should be dismissed as a matter of law pursuant to SCRCP 12(b)(6). Further, Plaintiffs are precluded from recovering additional damages under conspiracy for the same acts for which relief was obtained under other causes of action.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Lack of Intent)

87. Some or all of the claims, causes of actions, and requests for relief in Plaintiffs' Complaint are barred, in whole or in part, as Stuckey's actions were not intentional, malicious, egregious, in bad faith, or with willful or reckless indifference or disregard of any rights of Plaintiffs.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Acts Within Scope of Employment)

88. Plaintiffs' claims against Stuckey fail because she acted within the scope and course of her employment at all times and, therefore, Stuckey should be dismissed as a party defendant. S.C. Code Ann. § 33-56-80.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Statute of Limitations)

89. Plaintiffs' claims may be barred by the applicable statute of limitations.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Reservation and Non-Waiver)

90. Stuckey reserves any additional affirmative defenses as may be revealed or become available to her during the course of her investigation and/or discovery in the case and are consistent with the South Carolina Rules of Civil Procedure.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
(Incorporation)

91. Stuckey hereby incorporates and asserts all defenses, counterclaims, set-offs, and credits pled by any party to this action, to include any pleadings filed after this Answer, and specifically, without limitation, all defenses, counterclaims, set-offs, and credits pled to Plaintiffs' claims, to the extent not inconsistent with her Answer herein and her denial of liability of any kind.

WHEREFORE, having fully responded to Plaintiffs' Complaint, Stuckey prays that Plaintiffs' Complaint be dismissed, with prejudice and without cost to Stuckey, and for such other relief as this Court deems just and proper.

Respectfully submitted this 21st day of December 2023, in Charleston, South Carolina.

HALL BOOTH SMITH, P.C.

/s/ Ashley S. Heslop

Ashley S. Heslop, S.C. Bar No. 71148

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Counsel For Defendants

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Dale E. Van Slambrook, Circuit Court Judge

Case No. 2023-CP-08-03019

Joy D. Philips individually and
as guardian of Sierra A.
Phillips, and James C. Phillips,

Respondents,

v.

Community Options, Inc., Angela
Stuckey, Shirley Anderson, and Willa
Manigault,

Appellants.

NOTICE OF APPEAL

Community Options, Inc., Angela Stuckey, Shirley Anderson, and Willa Manigault (collectively, "Appellants"), appeal the Orders of The Honorable Dale E. Van Slambrook, dated March 25, 2026, and May 26, 2026, granting Respondents' Motion to Compel Document Request No. 12 and denying Appellants' Motion to Reconsider the same, respectively. See Order Granting Plaintiffs' Motion to Compel Document Request No. 12, Exhibit A, and Order Denying Defendants' Motion for Reconsideration, Exhibit B. Appellants received written notice of entry of the Order on their Motion for Reconsideration on May 26, 2026.

June 24, 2026

[SIGNATURE ON FOLLOWING PAGE]

HALL BOOTH SMITH, P.C.

/s/ R. Daniel Addison

R. Daniel Addison, S.C. Bar No. 6793
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Ashley S. Heslop, S.C. Bar No. 71148
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Other Counsel of Record:

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Counsel for Respondents

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Dale E. Van Slambrook, Circuit Court Judge

Case No. 2023-CP-08-03019

Joy D. Philips individually and
as guardian of Sierra A.
Phillips, and James C. Phillips,

Respondents,

v.

Community Options, Inc., Angela
Stuckey, Shirley Anderson, and Willa
Manigault,

Appellants.

PROOF OF SERVICE

I hereby certify that on this 24th day of June 2026, a true and correct copy of the above and foregoing Appellants' Notice of Appeal and exhibits were served upon counsel of record on behalf of all appellants by email to the following:

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Counsel for Respondents

June 24, 2026

HALL BOOTH SMITH, P.C.

/s/ R. Daniel Addison

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Caroline K. Buchanan, S.C. Bar No. 105244
Ashley S. Heslop, S.C. Bar No. 71148
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Counsel for Appellants

June 24, 2026

VIA EMAIL ONLY

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Gedney M. Howe, IV, Esq.
Michael Andrew Monastra, Esq.
Gedney M. Howe, III, PA
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mmonastra@gedneyhowe.com

RE: Joy D. Phillips individually and as guardian of Sierra A. Phillips, and James C. Phillips v. Community Options, Inc., Angela Stuckey, Shirley Anderson, and Willa Manigault

Dear Gentlemen:

Please find enclosed for service Appellants' Notice of Appeal along with Exhibits and Certificate of Service.

With kind regards, I am

Very truly yours,

s/ Elizabeth Pate

Elizabeth Pate
Assistant to R. Daniel Addison

/erp
Enclosures

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SC Court of Appeals

MOUNT PLEASANT, SC



HALL BOOTH SMITH, P.C.
ATTORNEYS AT LAW

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July 2, 2026

VIA EMAIL

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street, Suite 200
Columbia, SC 29201-3739
ctappfilings@sccourts.org

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Jul 02 2026

SC Court of Appeals

Re: Joy D. Phillips individually and as guardian of Sierra A. Phillips, and James C. Phillips v. Community Options, Inc., Angela Stuckey, Shirley Anderson, and Willa Manigault
Civil Action No.: 2023-CP-08-03019

Dear Ms. Kitchings:

Please find enclosed for filing Appellants' Notice of Appeal with Exhibits and Proof of Service in this matter. Please return a clocked copy. We are having a check in the amount of \$250 sent by Federal Express. Thank you for your assistance.

With kind regards, I am

Very truly yours,

/s/ R. Daniel Addison

R. Daniel Addison
Caroline K. Buchanan
Ashley S. Heslop
Spencer C. Gill

RDA/sec
Enclosures

cc: Christopher P. Kenney, Esq.
Gedney M. Howe, IV, Esq.
Michael Andrew Monastra, Esq.

MOUNT PLEASANT, SC

ALABAMA | FLORIDA | GEORGIA | NEW JERSEY | NORTH CAROLINA | SOUTH CAROLINA | TENNESSEE

Elizabeth Pate

From: Elizabeth Pate
Sent: Wednesday, June 24, 2026 12:05 PM
To: Chris Kenney; 'gedney4@gedneyhowe.com'; 'Michael Monastra'
Cc: Dan Addison; Caroline Buchanan; Ashley Heslop; Spencer Craig Gill; Ensley Mahoney
Subject: Phillips v. Community Options [HBS-DMS.FID1875022]
Attachments: Phillips - Notice of Appeal (Served 6.24.26).pdf

Good afternoon,

Please find enclosed for service Appellants' Notice of Appeal, Exhibits and Certificate of Service in the referenced matter.

Best regards,

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Jul 02 2026
SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Joy D. Phillips individually and
as guardian of Sierra A. Phillips,
and James C. Phillips,

Plaintiffs,

v.

Community Options, Inc.,
Angela Stuckey, Shirley Anderson,
and Willa Manigault,

Defendants.

C/A No.: 2023-CP-08-03019

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Jul 02 2026

SC Court of Appeals
ORDER GRANTING
PLAINTIFFS' MOTION
TO COMPEL DOCUMENT
REQUEST NO. 12

This matter is before the Court via WebEx on January 5, 2026 on Plaintiffs Joy D. Phillips and James C. Phillips' motion to compel Defendants Angela Stuckey, Shirley Anderson, and Willa Manigault in response to document Request No. 12, which seeks communications relating to (a) Sierra A. Phillips, a vulnerable adult and the daughter of the Phillips, (b & c) the Plaintiffs, and (d & e) reports of abuse, neglect, or injury of any resident of a Community Options facility, including the Thistle Community Training Home (CTH) II where Sierra resided.¹ Specifically, the Phillips ask the Court to compel Stuckey, Anderson, and Manigault to surrender their personal cell phones to their lawyer for a forensic examination and collection of text messages and production of the same. The Phillips argue that such messages do, in fact, exist and pertain to core contentions in this case. Attorney Chris Kenney was present on behalf of Plaintiffs and attorney Ashley Heslop attended on behalf of Defendants. The Court heard from the parties and reviewed all available memoranda. For reasons that follow, the motion is **GRANTED**.

¹ All findings of fact and conclusions of law indicated in this Order are made for the purpose of ruling on this motion only.

FACTUAL AND PROCEEDURAL BACKGROUND

The Court has carefully reviewed the submissions of the parties and the record in this case. The factual and procedural background here is complicated but important to this discovery dispute.

The Phillips' Allegations and Claims

According to the Complaint, Sierra is a 27-year-old woman with autism, dwarfism, a heart condition, ADHD, and the mental ability of an 8 to 10-year-old child who was residing in the Thistle CTH II group home for adults with special needs run by Defendant Community Options, Inc. *See* Compl. ¶¶ 6, 11. The Phillips allege that for months, Community Options' employees physically abused Sierra by hitting and kicking her. *See id.* ¶¶ 47–56, 86–91. They allege that, when the staff believed the Phillips might discover the abuse, staff made a false police report accusing the Phillips of physically and sexually abusing their own child. *See id.* ¶¶ 57–85. The Phillips allege that they were investigated by four different police agencies, cooperated fully, sat for interviews, and were cleared by police after 41 days of being restricted from seeing their daughter. *See id.* ¶¶ 79–85. Thereafter, they removed Sierra from Thistle CTH II and brought this action for themselves and Sierra for (1) assault and battery, (2) defamation, (3) civil conspiracy, and (4) negligent hiring and supervision. *Id.* ¶¶ 92–119. The Defendants deny these allegations.

Service of Request No. 12.

This action was filed on October 25, 2023. Discovery, including Request No. 12, was served on Stuckey, Anderson, and Manigault with the Summons and Complaint on October 26, 2023, November 7, 2023, and October 26, 2023, respectively.

On January 11, 2024, all Defendants served responses and objections to the discovery with an initial document production of 21 PDF files consisting of 3,894 pages. No native files or text messages were produced. In response Request No. 12, the Defendants responded:

RESPONSE: Community Options objects to this Request to the extent it seeks the disclosure of information prepared in anticipation of litigation, and information protected by the attorney-client and/or work product privileges. Notwithstanding said objections, please see documents provided herewith.

STUCKEY RESPONSE: See Community Options' Response, incorporating all objections.

ANDERSON RESPONSE: See Community Options' Response, incorporating all objections.

MANIGAULT RESPONSE: See Community Options' Response, incorporating all objections.

DEFs' Resp. RFP 12 (bold and underline original).

On March 5, 2024, the Phillips' counsel sent correspondence outlining nine areas of concern and requested a response or reconsideration of the Defendants' position. *See* PL's MTC at Ex. A. On April 1, 2024, the Phillips moved to compel.

On August 12, 2024, the Clerk issued a notice that the motion would be heard on August 28, 2024. The day before the hearing, the Defendants sent the Phillips a second document production and Defendants' counsel indicated supplemental written responses would follow that would hopefully resolve some outstanding issues. By agreement, the hearing was continued.

On August 30, 2024, the Phillips received a first supplemental response, but it did not include any supplemental production in response to Request No. 12.

On September 19, 2024, the Defendants served a second supplemental response that included one two-page document purporting to be text messages to or from Manigault concerning

Sierra. *See* Phillips_Manigault Text Msgs_0001–02. It is not clear who it was sent to or when. No other text messages from Stuckey, Anderson, and Manigault have been produced.

Stuckey, Anderson, and Manigault’s Depositions

On May 28 and 29, 2025, Stuckey, Anderson, and Manigault were deposed. Notably, all three individuals testified about using their personal cell phones to send work-related texts.

Anderson testified that, on January 2, 2023, she texted from her phone photos she took of Sierra’s bottom with red markings to Stuckey and a Community Options supervisor at the time the allegations against the Phillips were made. *See* Anderson Dep. 41–43, 49–51.² These texts have never been produced, just the photos. Anderson also testified that she would text Stuckey or Manigault using her phone “[t]o let them know something, yes.” *Id.* at 87. When asked if she still had those messages on her phone, Anderson claimed her phone “got messed up, and it had to be reset, yes, so I don’t have those messages anymore.” *Id.* at 87–88. During her deposition—i.e., more than 18 months after she was served with Request No. 12—Anderson testified that she lost these messages “about a month ago.” *Id.* Anderson testified that she never provided her lawyer with access to her phone. *Id.* at 88–89.

Similarly, Stuckey testified that she texts with her work colleagues about what is going on at the group home. *See* Stuckey Dep. 150–51. Stuckey testified that she received the photos of Sierra’s bottom from Anderson via text. *Id.* at 154, 190. Stuckey also testified that she has replaced her phone “two or three times probably” since then but that when she replaced her phone, she migrated the old data to the new phone. *Id.* at 110–11. However, Stuckey also testified: “I always

² Citations to deposition testimony refer to the transcripts filed as Exhibits B, C, and D to the motion to compel Request No. 12, filed on August 28, 2025.

clean my phone out. I clean my phone out basically every day. ... I delete what doesn't need to be because -- for a job reason." *Id.* at 111–12.

Manigault also testified that she texts “back and forth” with her co-workers about work on her personal phone. *See* Manigault Dep. 19–20. Manigault testified that she reviewed her phone (not her lawyer) and produced a single two-page document of a text message to her supervisor Carolyn White. When asked about other text messages to White, she answered:

Q. Is there -- I assume this is not the only time you've texted Ms. White.

A. No, I don't think that's the only time I texted Ms. White.

Id. at 21–22. Manigault maintained that, based on her review, the only text she found “for Sierra” was the two-page document marked Phillips_Manigault Text Msgs_0001–02. *Id.* at 23. Notably, Request No. 12 is not limited to communications solely about Sierra.

Motion and Hearing on the Motion

On August 28, 2025, the Phillips filed this motion asking the Court to (1) overrule all objections to Request No. 12, (2) order Defendants' counsel to forensically collect the individual Defendants' personal phones and produce responsive text messages, and (3) sanction the individual Defendants with a spoliation instruction if the messages cannot be retrieved. *See* PLs' MTC Req. No. 12, p. 10.

On January 5, 2026, the motion came before the Court for a hearing via the WebEx virtual courtroom.³ The Phillips were represented by Christopher P. Kenney, Esq., of Chris Kenney Law. The Defendants were represented by Ashley Heslop, Esq., of Hall Booth Smith, P.C.

³ Citations to the January 5 hearing refer to the hearing transcript, filed March 16, 2026.

During the hearing, Defendants' counsel acknowledged there were text messages between the individual Defendants with photos of Sierra that were purportedly taken at the time the allegations against the Phillips were made, but argued "there was a gap" between the time Sierra left Community Options and when the litigation was filed and that "some of them have gotten new phones over the time frame, some of them have updated phones." Hr.'g Tr. 8–9. The Phillips dispute this contention, arguing that the individual Defendants were served with Request No. 12 in the same calendar year as the messages with the photo and there has been "no effort" by the Defendants to retrieve the messages. *Id.* at 9. The Phillips pointed to testimony from Anderson claiming she "lost" the messages one month prior to her deposition and testimony from Stuckey that she has deleted messages since this litigation began. *See id.* at 9–10. They also argued that when phones are upgraded, old data migrates to the new phone. *See id.*

The Phillips urged the Court to order the individual Defendants to provide their phones to their lawyer for a forensic collection and review and to require filed affidavits explaining what was done to retrieve the information. Hr.'g Tr. 11–12. The Defendants object to this procedure. Defendants' counsel told the Court that neither she nor her office ever inspected the phones for discoverable evidence; "Instead, I asked them [i.e., the individual Defendants], Check your phones, look for anything." *See id.* at 13–14. The Phillips' counsel argued this was a sanctionable admission and disputed the contention that since the individual Defendants "didn't come up with any incriminating messages, [counsel had] no obligation as the lawyers to go and check or to require the client to turn the phone over[.]" *Id.* at 17–18.

LEGAL STANDARD

A trial court's rulings on discovery matters will not be disturbed on appeal absent a clear abuse of discretion. *Arthur v. Sexton Dental Clinic*, 368 S.C. 326, 333, 628 S.E.2d 894, 898 (Ct.

App. 2006). An abuse of discretion occurs when the ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support. *Id.*

CONCLUSIONS OF LAW

The question here is whether Stuckey, Anderson, and Manigault have done enough to collect, review, and produce potentially responsive text messages and, if not, what should be done now to ensure the evidence is gathered and produced. The Court is persuaded by both the facts and the law that the individual Defendants have not fulfilled their obligations under Rules 26 and 34, SCRCP, to diligently collect, review, and produce text messages the Phillips have been requesting since 2023. The motion is **GRANTED** for the following four reasons.

First, text messages responsive to Request No. 12 are undoubtedly relevant within the meaning of Rule 26(b)(1), SCRCP. This case is about allegations that the individual Defendants abused Sierra and sought to cover it up by falsely accusing her parents. Notably, these allegations are hotly contested. As the Phillips argue, “In this case, someone is not telling the truth about what happened to Sierra, which makes contemporaneous text message communications from and between the Defendants critical, perishable evidence.” MTC Req. No. 12, p.6. The Court agrees and concludes that discovery of text messages that relate to Sierra, the Phillips, and reports of abuse, neglect, or injury of a Community Options resident are relevant to this case.

Second, the Court is persuaded by the evidence that responsive text messages do, in fact, exist. The Defendants argue that the “suggestion that Individual Defendants have failed to disclose all accessible relevant data is based on *pure speculation*,” Defs.’ MIO, 10 (emphasis added). The Court disagrees.

Stuckey, Anderson, and Manigault all testified that they used their personal phones to send work-related text messages. According to Stuckey and Anderson, when the abuse allegations were

made on January 2, 2023, and photos were taken of Sierra, the photos were exchanged via text message. Whatever messages were sent, they are obviously relevant and must be produced.

Furthermore, the Phillips point to another text message from December 19, 2022, that Stuckey sent to her supervisor but erroneously included Joy Phillips. *See* MTC Req. No. 12 at Ex. A. In it, Stuckey refers to one of the vulnerable adults as “to [sic] special” and tells her supervisor: “Been at work since 12 last night right now F all then.” *Id.* During her deposition, Stuckey confirmed she was using a four-letter expletive when referring to Sierra and the other vulnerable adults in the group home. *See* Stuckey Dep. 198–205. This message was never produced by the Defendants and confirms precisely what the individual Defendants all testified to during their depositions: namely, that they used their personal phones to discuss work.

It is clear based on this record that responsive messages exist but that, instead of collecting the phones and reviewing the messages for responsiveness, counsel left it to the individual Defendants to decide whether they had responsive messages. The Phillips argue it is not surprising that these individuals failed to produce self-incriminating messages; however, the Court notes that, even if the individual Defendants acted in good faith, they may have required some technical assistance to ensure they were properly identifying potentially discoverable information for further review, but that no such assistance was given. Considering that the record demonstrates the existence of responsive yet unproduced messages, court intervention is now appropriate.

Third, the Defendants’ legal position is also untenable. They urge the Court that “[t]he only text message that has been discussed” is one message sending the photos, *see* Hr.’g Tr. 16, and suggest that the Phillips must prove the existence of other messages before the Defendants are obligated to search for them. *Cf.* Hr.’g Tr. 8, 19 (arguing there has been “no testimony” about the existence of responsive text messages). This is incorrect.

Nothing in the discovery rules places the burden on the requesting party to prove the existence of information requested before the disclosing party is obliged to search for it. When there is no responsive information, the responding party should simply state as much and provide the appropriate certification of the same. *See* Rule 26(g), SCRPC. That is not the case here; here, the Defendants object to responding to Request No. 12.

When a party objects to disclosure, as the Defendants did here, the burden is first on the objecting party to “show[] a particularized harm” that constitutes good cause to protect the disclosing party from annoyance, embarrassment, oppression, or undue burden. *See Hollman v. Woolfson*, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009); *see also* Rule 26(c), SCRPC. Once this initial showing is made, the burden shifts to the requestor to demonstrate relevance and necessity, after which a court will balance any competing concerns. *See id.*

The Defendants’ position is untethered from this framework because they make no factual showing in support of their objections. Defendants’ memorandum is replete with general assertions about courts imposing discovery limits and individual privacy concerns. *See, e.g.*, Defs.’ MIO, 6–7, 10–12. This Court is mindful of its need to impose reasonable limits on discovery and the privacy concerns implicated by cell phone productions. But none of these general principles override the specific facts or the need for the information requested in this case. Cell phone information is not immune to civil discovery, and the Phillips are not proposing that Stuckey, Anderson, and Manigault hand over their devices to Plaintiffs’ counsel for unrestricted review. Instead, the Phillips are asking that the Defendants’ lawyer review the messages with the assistance of a forensic expert and then produce responsive messages. This procedure—requiring collection, review, and production—is no different than the procedure used to produce every other type of document and tangible thing discoverable under Rule 34, SCRPC.

Fourth, while the Court is reserving any ruling on the question of spoliation or sanctions, it is mindful that litigants have duty to ensure perishable evidence is not destroyed during the pendency of a lawsuit. The duty to preserve material evidence attaches when “a party reasonably should know that the evidence may be relevant to anticipated litigation.” *Silvestri v. Gen. Motors Corp.*, 271 F.3d 583, 590–591 (4th Cir. 2001); *see also Kershaw County Bd. of Educ. v. U.S. Gypsum Co.*, 302 S.C. 390, 394, 396 S.E.2d 369, 372 (1990) (explaining an adverse inference may be drawn when evidence is lost or destroyed by a party).

Here, there has been testimony from the individual Defendants that they deleted messages and changed phones. Whether those messages can be recovered is presently unknown, but the Court believes the individual Defendants should try before any decision is made concerning spoliation. The Phillips’ counsel has proposed a protocol for a forensic expert to attempt to retrieve those messages and then furnish whatever is recovered to Defendants’ counsel for a relevance review and production. *See Hr.’g Tr.* 11–12. Because the information sought is discoverable and involving an expert may obviate the need for further proceedings on this issue, the Court agrees a forensic collection and review is needed. The individual Defendants had ample opportunity to avoid this by performing their own diligent search for the requested information. Instead, they objected to Request No. 12, only for the Phillips to demonstrate through other discovery that such information does, in fact, exist. Given these inconsistencies, the Court will now order a more formal protocol. *Cf. Bennett, v. State Farm Fire & Cas. Co., Inc.*, No. 6:23-CV-04234-DCC-KFM, 2025 WL 4234017, at *2 (D.S.C. Jan. 13, 2025) (adopting forensic protocol for phone imaging due to “inconsistencies on the record”).

CONCLUSION

For the reasons set forth above, the motion is **GRANTED** and the Court **ORDERS** the following relief:

1. All objections to Request No. 12 are **OVERRULED** except for any claim under the attorney-client privilege, which must be made through a detailed privilege log.
2. Within 30 days of this Order being filed, the individual Defendants **SHALL** surrender all phones in their possession, including phones that are no longer being used, to their counsel for an expert forensic collection and copying, at the Defendants' expense, of all accessible text messages from January 1, 2017, through October 25, 2023. This collection effort **SHALL** include a documented effort to recover any potentially available text messages from any backup copies of phone data and "Cloud" services (e.g., iCloud, Microsoft 365, etc.).
3. Within 60 days of this Order, Defendants' counsel **SHALL** review all recovered text messages for responsiveness to Request No. 12 and produce the text messages in Excel/csv, PDF, and native forms with all associated attachments in native form to Plaintiffs' counsel along with a privilege log itemizing any claims of attorney-client privilege. Responsive communications referring to vulnerable adults other than Sierra may be redacted to redact the names of those individuals. The communication may also be marked "confidential" under the existing Confidentiality Order (filed Jan. 11, 2024).

4. With the above-referenced production, Defendants **SHALL** serve an affidavit from the forensic expert detailing the devices inspected, the procedures used to recover and collect text messages, whether recovery and collection was successful and if not, why, and the number of potentially responsive messages collected as a result.
5. With the above-referenced production, Defendants **SHALL** also serve an affidavit from their counsel attesting to the procedures used to review and produce collected messages for responsiveness to Request No. 12.
6. Within 30 days of receiving the above-referenced production from the Defendants, the Phillips **SHALL** either file a notice stating that this motion is resolved or file a renewed motion for further proceedings consistent with this Order.

The Court **SHALL** retain jurisdiction of this motion to ensure compliance with this Order and for any further proceedings. The issues pertaining to spoliation and sanctions are reserved.

AND IT IS SO ORDERED.

[Judge's signature page follows]



Berkeley Common Pleas

Case Caption: Joy D. Phillips , plaintiff, et al VS Community Options, Inc. ,
defendant, et al
Case Number: 2023CP0803019
Type: Order/Other

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge
#2781

Electronically signed on 2026-03-25 10:23:04 page 13 of 13

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2023 CP-08-03019

Joy D. Phillips individually and as guardian of
Sierra A. Phillips, and James C. Phillips

Community Options, Inc., Angela Stuckey,
Shirley Anderson, and Willa Manigault

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: The Court

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

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. ☐ See Page 2 for additional information.
- ☐ **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: This matter came before the Court on the Defendant Motion to Alter, Amend, and/or Reconsider, filed on April 3, 2026. The Defendant asks the Court to Reconsider its Order, filed on March 25, 2026 that granted Plaintiff's Motion to Compel. The Court timely received a copy of the Motion for Reconsideration; a Memorandum in Opposition was filed by Plaintiff. This motion is disposed of without the necessity of a hearing and decided on the record and briefs.

"The purpose of Rule 59(e), SCRPC, to alter or amend the judgment is to request the trial judge to reconsider matters properly encompassed in a decision on the merits." *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). "A party may wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised but not ruled on, in order to preserve it for appellate review." *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) (emphasis in original). "A party cannot use a motion to reconsider to present an issue he could have raised prior to judgment but did not." *Anderson Memorial Hosp., Inc., v. Hagen*, 313 S.C. 389, 434 S.E.2d 268 (1993); See also *Arnold v. State*, 309 S.C. 157, 172-173, 420 S.E.2d 834, 842 (1992).

Defendant assertions that the Order entered by the Court exceeded the scope of the requested relief is without merit. The Court carefully considered the Plaintiff's request, Defendant objections, and burdens/protections available to Defendant.

RECEIVED

Jul 02 2026

SC Court of Appeals

After consideration of the record, as well as the various interests balanced by the Court at the time of the ruling, the Defendant Motion to Alter, Amend, and/or Reconsider is heard and on the basis of the rationale set forth in the Plaintiff Memorandum in Opposition is respectfully **DENIED**.

Further, the Plaintiff request for attorney fees related to filing its responsive pleadings is likewise **DENIED**.

AND IT IS SO ORDERED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk : _____

| INFORMATION FOR THE JUDGMENT INDEX | | |
|--|--|---|
| Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below. | | |
| Judgment in Favor of
(List name(s) below) | Judgment Against
(List name(s) below) | Judgment Amount To be
Enrolled
(List amount(s) below) |
| | | \$ |
| | | \$ |
| | | \$ |
| If applicable, describe the property, including tax map information and address, referenced in the order: | | |

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

SCRCP Form 4C (02/2017)

Page 2 of 4

E-Filing Note: In E-Filing counties, 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 judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



Berkeley Common Pleas

Case Caption: Joy D. Phillips , plaintiff, et al VS Community Options, Inc. ,
defendant, et al
Case Number: 2023CP0803019
Type: Order/Form 4

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge
#2781

Electronically signed on 2026-05-26 16:19:44 page 4 of 4



HALL BOOTH SMITH, P.C.
ATTORNEYS AT LAW

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July 2, 2026

VIA EMAIL

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street, Suite 200
Columbia, SC 29201-3739
ctappfilings@sccourts.org

RECEIVED

Jul 02 2026

SC Court of Appeals

Re: Joy D. Phillips individually and as guardian of Sierra A. Phillips, and James C. Phillips v. Community Options, Inc., Angela Stuckey, Shirley Anderson, and Willa Manigault
Civil Action No.: 2023-CP-08-03019

Dear Ms. Kitchings:

Please find enclosed for filing Appellants' Notice of Appeal with Exhibits and Proof of Service in this matter. Please return a clocked copy. We are having a check in the amount of \$250 sent by Federal Express. Thank you for your assistance.

With kind regards, I am

Very truly yours,

/s/ R. Daniel Addison

R. Daniel Addison
Caroline K. Buchanan
Ashley S. Heslop
Spencer C. Gill

RDA/sec

Enclosures

cc: Christopher P. Kenney, Esq.
Gedney M. Howe, IV, Esq.
Michael Andrew Monastra, Esq.

MOUNT PLEASANT, SC

ALABAMA | FLORIDA | GEORGIA | NEW JERSEY | NORTH CAROLINA | SOUTH CAROLINA | TENNESSEE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Dale E. Van Slambrook, Circuit Court Judge

Case No. 2023-CP-08-03019

Joy D. Philips individually and
as guardian of Sierra A.
Phillips, and James C. Phillips,

Respondents,

v.

Community Options, Inc., Angela
Stuckey, Shirley Anderson, and Willa
Manigault,

Appellants.

PROOF OF SERVICE

I hereby certify that on this 24th day of June 2026, a true and correct copy of the above and foregoing Appellants' Notice of Appeal and exhibits were served upon counsel of record on behalf of all appellants by email to the following:

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Counsel for Respondents

June 24, 2026

HALL BOOTH SMITH, P.C.

/s/ R. Daniel Addison

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Counsel for Appellants

STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**

COUNTY OF BERKELEY CASE NO.:2023-CP-08-03019

**** TRANSCRIPTION OF WEBEX HEARING ****

January 5, 2026

BEFORE: The Honorable Dale Van Slambrook

JOY D. PHILLIPS, et al.,

Plaintiffs,

vs.

COMMUNITY OPTIONS, INC., et al.,

Defendants.

APPEARANCES:

Christopher Kenney, Esq.
Appearing for the Plaintiffs.

Ashley Heslop, Esq.
Appearing for the Defendants.

Recorded by: Webex Courtroom

Transcriber: Natalie Dahl, RPR
SC Official Court Reporter

NOTE: Pursuant to Rule 607 (H)(1)(B), SCACR "A Court REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT." All requests for a copy of the enclosed transcript shall be sent to: ndahl@sccourts.org

INDEX

| Description | Page |
|-------------|------|
| (NONE) | |

EXHIBITS

(NONE)

Transcript Legend

| | |
|----------------|--|
| Dash (--) | Indicates an interruption in speech |
| Ellipses (...) | Indicates trailing off in speech |
| Phonetic (ph) | Indicates a phonetic word |
| (Inaudible) | Indicates word(s) are not discernable due to audio recording quality |
| (sic) | Word(s) said but may be incorrect |

P R O C E E D I N G S

1
2 THE COURT: All right. Good afternoon.
3 We're here at the 2:30 motions for Berkeley County.
4 Today is January the 5th, 2026. First matter I
5 have at 2:30 is 2023-CP-08-03019, Phillips versus
6 Community Options. It appears to be a motion to
7 compel.

8 Is anyone here on that matter?

9 MR. KENNEY: Yes, Your Honor. Good
10 afternoon. My name is Chris Kenney. I represent
11 the plaintiffs.

12 MS. HESLOP: I'm here, Your Honor. Ashley
13 Heslop on behalf of the defendants.

14 THE COURT: Okay. And this is a motion to
15 compel; is that right?

16 MR. KENNEY: Yes, Your Honor.

17 THE COURT: All right. And whose motion is
18 it?

19 MR. KENNEY: It's mine, Your Honor.

20 THE COURT: Okay. I'll be happy to hear from
21 you.

22 MR. KENNEY: Thank you, Judge. And may it
23 please the Court. My name is Chris Kenney. I'm
24 here on behalf of the plaintiffs in this case.

25 This case arises from a group home that was

1 housing vulnerable adults, including my client's
2 daughter, Sierra. She's a 27-year-old young woman
3 with developmental disabilities that gives her a --
4 essentially, she has the comprehension of an eight-
5 to ten-year-old, if that provides some sense of the
6 type of individual that we're dealing with.

7 The allegations in this case are that the
8 defendants, including the individual defendants
9 that are the subject of this motion, were
10 physically and verbally abusing my client's
11 daughter, and that when -- on the eve of this abuse
12 potentially being discovered, there was a report
13 made -- an erroneous report made -- that her
14 parents were responsible for the abuse.

15 My clients, they were investigated by four
16 different police agencies, had no contact with
17 their daughter for 41 days, and they were cleared
18 of all of those charges. They were unfounded, and
19 those cases were closed.

20 Thereafter, we filed this case in October of
21 2023. And the defendants, including the individual
22 defendants, were personally served with the
23 summons, the complaint, and the discovery that is
24 at issue here, Judge. Specifically, we're asking
25 for an order to compel Document Request No. 12,

1 which seeks communications. And specifically what
2 is at issue are the text messages of the individual
3 defendants, the messages that we know exist and are
4 on their phones, but have not been collected or
5 produced to date. So that's what the motion is
6 about, Judge.

7 If I could, let me just briefly outline why
8 we're asking for these messages. Unbeknownst to my
9 clients, there was abuse in this vulnerable adult
10 home, a home called Thistle, run by the defendant,
11 Community Options. The three individual
12 defendants -- Ms. Stuckey, Ms. Anderson, Ms.
13 Manigault -- were workers in that house. They
14 were -- their role is to support these vulnerable
15 adults to make sure that they can engage in, you
16 know, hygiene, meals, get to day activities, those
17 types of things.

18 Sometime during Covid, verbal and physical
19 abuse began occurring in this home, unbeknownst to
20 my clients. What brings this case to a head is
21 their daughter, Sierra, went for a home visit on
22 December 31st, 2012 -- excuse me. She was -- she
23 went on a home visit around the holidays and was
24 returned to the Thistle House on December 31, 2022,
25 all right.

1 On January 2nd, 2023, two of the individual
2 defendants claim that they observed red markings on
3 the young woman's bottom, and that she made
4 statements implicating her parents were responsible
5 for those markings. A complaint was made with law
6 enforcement, which precipitated the no-contact and
7 the investigation that I referred to a minute ago.

8 Judge, the important fact in this case, and
9 we've attached deposition transcripts that attest
10 to this, is whatever happened to Sierra -- and we
11 believe that this is just one example of the
12 physical abuse that she suffered in this home --
13 whatever happened to Sierra did not happen as a
14 result of her parents. And we know this because in
15 this home there is something called a "body audit"
16 where the workers are supposed to make physical
17 observations of the vulnerable adults, typically
18 during shower time. You file a report indicating
19 whether there is any bruising, markings, whatever,
20 which is obviously to protect the adult, but also
21 to keep a record of any unusual activity.

22 We know Sierra was returned to the home on
23 December 31st. There were body audits completed
24 by an independent third-party witness, who we've
25 deposed, on December -- excuse me, on January 1st

1 and 2nd, indicating there were no markings on her
2 behind. One of the body audits that was completed
3 during this period was completed by one of the
4 individual defendants. So we know whatever
5 happened to Sierra, it wasn't some abuse while she
6 was with her parents.

7 On January 2nd, two of the individual
8 defendants claim that they observed these markings.
9 They photographed the markings, and there are texts
10 -- their testimony -- text messages where they
11 exchange the photograph that was taken, okay.
12 Judge, we haven't received the text message where
13 those -- that photo was relayed.

14 We also know --

15 THE COURT: How do you know that? How do you
16 know that those photos were taken and those texts
17 were exchanged? Where did you get that
18 information?

19 MR. KENNEY: The individual defendants
20 testified about it in their deposition, Judge.

21 THE COURT: And this information hasn't been
22 turned over, why?

23 MR. KENNEY: Your Honor, I have the photo,
24 but I don't have the text messages. I don't know.

25 THE COURT: Okay. All right. From the

1 defendant, how come that information hasn't been
2 turned over? I mean, it was requested, right?

3 MS. HESLOP: It was, Your Honor.

4 THE COURT: So tell me why it wasn't turned
5 over.

6 MS. HESLOP: Because the individuals no
7 longer has those on their phones, as far as the
8 text messages. So they exchanged the photo, and
9 there was a gap between the time that Sierra left
10 my client, Community Options, a non-profit home,
11 left that home, and before the litigation was
12 filed. And so during that time frame -- I mean,
13 individuals have their phones, they use their
14 phones, everything else, but the photos themselves
15 were taken at the direction of the supervisor and
16 texted to the supervisors, and then those were used
17 as part of the investigation that was conducted,
18 and also provided to law enforcement.

19 So there has been no testimony that the
20 actual text message itself said anything. In fact,
21 the testimony was that it was just sending the
22 photo.

23 THE COURT: Okay. You are saying the photos
24 are gone?

25 MS. HESLOP: I'm not saying the phones are --

1 well, some of them have gotten new phones over the
2 time frame, some of them have updated phones.

3 THE COURT: Mr. Kenney, if the phones are
4 gone, what all are you asking? I mean, obviously,
5 if it was the same phone, you would want the phone,
6 I'm assuming. If the phones are gone, what are you
7 all asking for?

8 MR. KENNEY: Well, Judge, if they can't
9 produce these text messages, we would like a
10 spoliation sanction. And let me just sort of
11 resist the representation that Ms. Heslop is making
12 to you. I deposed these individuals, all right.
13 Now, Judge, they were served with this discovery
14 request when we served the summons and complaint in
15 November of 2023. So that would be in the same
16 calendar year as the allegations and the
17 investigation that is the underlying facts in this
18 matter.

19 All three of them testified that none of them
20 had provided their phone to Ms. Heslop or anybody
21 from her office. There has been no effort by
22 Counsel to retrieve the phone. There has been no
23 effort to log into restore the phone. You know,
24 when you upgrade your phone, Judge, as I do,
25 typically you plug it in, especially if you have an

1 iPhone, and the information from the old device
2 upgrades and uploads onto the new device.

3 And, so, you know, the testimony that I heard
4 from these ladies, all three of them agreed and
5 testified that they used their personal cellphones
6 to text about their work, including these
7 vulnerable adults who are the subject matter of
8 this case.

9 One of the individuals claims she lost the
10 messages one month before her deposition. I don't
11 know how that is possible, Judge. As you know, in
12 this electronic world, almost everything exists on
13 the Cloud, but she claims she lost the messages a
14 month before her deposition. That was
15 Ms. Anderson.

16 Ms. Stuckey testified that she had replaced
17 her phone two or three times. I understand that.
18 But she also testified that she always cleans out
19 her phone, meaning she deletes messages, and that
20 she's deleted messages since this litigation began.
21 That is a violation of discovery as well, Your
22 Honor. There should have been a hold placed on
23 this information the minute they received the
24 summons and complaint and our discovery request.
25 We've been asking for the same stuff for going on

1 three years now.

2 The third individual, Ms. Manigault --

3 THE COURT: Let me interrupt, Mr. Kenney.

4 And I'm not technologically savvy enough to provide
5 any of the answers that I may be asking questions
6 about, but is there any -- any steps that you want
7 taken? Is there phones that you want retrieved
8 that you want to investigate? What steps are you
9 asking for in order to try to recover any of this
10 information, if it's still there? What steps --
11 what steps -- what exact steps are you asking me to
12 impose on these individuals? What steps?

13 MR. KENNEY: Yes, Your Honor. I would like
14 the defendants to do what my clients have already
15 done, which is the following: Number one, they
16 need to provide their phone and any phones that
17 they may have during this time period to Ms. Heslop
18 and her office. That's number one.

19 Number two, at their expense, they need to
20 hire a forensic expert. We use a guy in Charleston
21 named John Akerman, but there is many folks that do
22 this work to go into the phones and attempt to do a
23 forensic extraction to retrieve the information
24 during the relevant time period that we've asked
25 for.

1 Three, that information can be provided to
2 Ms. Heslop, and she can review it, something that
3 has never happened in this case. She needs to
4 review it, and we would ask for a filed affidavit
5 from both her phone expert and from her as to
6 precisely what they have done in this matter.

7 That is what -- and then, Your Honor, if the
8 information doesn't exist any longer, that will be
9 another matter for another time, but we've been
10 trying to get answers and get somebody to collect
11 these messages going on three years, and I just
12 don't accept the idea that they vanished.

13 THE COURT: Ms. Heslop, any objection to
14 collecting the phones from these folks that they
15 have, having an expert do the examination, extract
16 it, and you review it before turning it over to Mr.
17 Kenney?

18 MS. HESLOP: Yes, we do object to it, Your
19 Honor. And we filed a memorandum in opposition.

20 THE COURT: Right, which I got today and
21 haven't had a chance to read.

22 MS. HESLOP: No, I understand. We do object
23 to the way that they are asking this to be done
24 because I have not -- what I have not heard Mr.
25 Kenney say is what time frame that he's talking

1 about, what specific information he's looking for.

2 Because the problem is with these kinds of --
3 it is not as simple as give me the phone and we
4 turn it over to an expert. It is these individual
5 people's personal cellphones that they use for
6 their day-to-day lives, which, as you know, I mean,
7 these are not just phones, they are mini computers.
8 There are multiple apps, there is e-mail --

9 THE COURT: Which they exchanged text
10 messages, which are obviously relevant to the case,
11 where they took pictures that are relevant to the
12 case, and now they -- they don't have it, and they
13 say it's gone. I mean, that's mystifying to me.
14 But I understand your concern about information
15 that probably shouldn't be shared, and there is
16 probably some of it that shouldn't be shared, but
17 wouldn't you be able to exclude that information
18 under the scenario suggested by Mr. Kenney?

19 MS. HESLOP: Well, I think that we need some
20 sort of parameters and goalposts that are very
21 clear and put in place. But, also, Mr. Kenney's
22 office when they -- when we responded to discovery,
23 I think it's being glossed over that -- that of
24 course we have sat with our clients, we have asked
25 them to look at their phones, asked them, Do you

1 have any of this information, provide us with any
2 of the information, from the very start of this
3 case so that we would not be in this situation.

4 And --

5 THE COURT: But it's your client that got rid
6 of the phone or deleted the messages after having
7 received -- after having received the notice. I
8 know -- yeah, your hands are obviously tied by what
9 your clients are doing. This doesn't sound like it
10 is in their best interest. There may be nothing
11 there.

12 MS. HESLOP: I think it is a
13 mischaracterization of what their testimony was.
14 There is a difference between giving me their phone
15 and -- which they did not do. I did not say to my
16 clients when I sat down with them and met with them
17 and talked about this case and talked about the
18 allegations that Sierra made against her parents, I
19 did not sit there and say, You now have to give me
20 your phone for me to look at this. Instead, I
21 asked them, Check your phones, look for anything.

22 The result of that was Ms. Manigault had some
23 text messages on her phone that referenced Sierra.
24 We produced those. We asked our client to produce
25 any e-mails. We supplemented discovery two or

1 three times with more documents and information.
2 We have provided plaintiff's counsel with each
3 individual defendants' cellphone number, carrier,
4 social media user names, e-mail addresses, the
5 serial number for the computer used in the house.
6 All of this information has been provided.

7 But instead of taking the less intrusive
8 manner of subpoenaing that information, they
9 haven't done that. They haven't taken any less
10 intrusive step. But what they are asking for now,
11 and what I believe the case law says, is that it is
12 just the privacy interest outweighs what they think
13 they might find on a phone when it's already been
14 discussed that they would routinely just would
15 delete messages. They would routinely use the
16 house phone. They might make phone calls. They
17 might not send text messages at all, or very
18 rarely.

19 There is no -- I think there's been a
20 mischaracterization that somehow there is this
21 treasure trove of text messages that is going to be
22 found. And then there is an implication that if
23 they're not there, that if my clients didn't do
24 anything intentionally or with the idea of
25 destruction of evidence, instead it's just the

1 routine, good faith use of a phone -- they are a
2 mini computer -- that that is somehow nefarious and
3 warrants some sanctions. If there is not anything
4 that is produced out of some forensic review, then
5 somehow that is also supposed to be used against
6 us, when we already said we don't have anything.

7 The only text message that has been discussed
8 that happened was the text message sending the
9 photos. There was not a text message discussing
10 it. It's just sending the photos. And that's been
11 admitted to, testified to, produced in discovery,
12 produced with law enforcement subpoenas. I mean,
13 all of that has been provided.

14 So I think it's just a mischaracterization
15 to -- for it to be said that --

16 THE COURT: Well, you all assert -- and your
17 client asserts -- that there was no text messages
18 accompanying the photographs, but there's no proof
19 of that, and there's nothing that can be proven
20 without a look at the phones. And it may not be
21 available ever if it's been disposed of or
22 successfully deleted.

23 MR. KENNEY: Your Honor, if I may?

24 THE COURT: Certainly.

25 MR. KENNEY: First of all, Ms. Heslop is just

1 not correct that there is not other messages. We
2 know that there is other messages talking about
3 these vulnerable adults in this home because one of
4 these individual defendants accidentally copied my
5 client on it. And it was a message where she was
6 texting to her supervisor, you know, I've been on
7 shift all night, quote, "F" all of them, meaning
8 the four-letter word, "F" the four vulnerable
9 adults in this home. So that's the way they talk
10 between themselves, including with their
11 supervisor, when nobody else is looking.

12 Now, that message is on the first and second
13 page of our motion. It was sent on December 19,
14 2022. So, you know, right within the operative
15 period that we're talking about.

16 Judge, the other thing I would say is this:
17 Our discovery, there is a bunch of requests that
18 they never complied with -- or fully complied with,
19 and we're not here to deal with all of these today;
20 but what I learned from depositions is that these
21 text messages are what is really important in this
22 case.

23 But, you know, this idea that we ask the
24 client, and they didn't come up with any
25 incriminating messages, and we have no obligation

1 as the lawyers to go and check or to require the
2 client to turn the phone over, that is -- Judge,
3 respectfully, it is not how discovery is done.
4 And, frankly, it is an admission by Ms. Heslop that
5 maybe her office should be sanctioned in this
6 motion because they never preserved the evidence
7 that they knew we were asking for on day one.

8 If they had done that and there had been no
9 messages, we wouldn't be here, Judge. But we know
10 there are messages because these defendants
11 testified about it. And we know they deleted them
12 or got rid of them and haven't provided them to
13 their client, because that is what they told me in
14 their deposition.

15 MS. HESLOP: We're saying they deleted
16 day-to-day messages from their phones, not that
17 they deleted messages related to Sierra or her
18 parents. So there -- if we're going to do this,
19 then we need to do it with some parameters, some
20 framework in mind. It needs to be individualized.
21 Because the one message that Mr. Kenney just spoke
22 about, about the group text that his client was
23 accidentally copied on, that was one defendant, not
24 both -- not all three of them. And so, again, the
25 other two -- that was Ms. Stuckey that was on that

1 one. The other two were not there. The other two
2 were not on that group chat.

3 And there's been zero testimony that there
4 are other text messages like that out there. They
5 are just making an assumption, but the law says
6 that a mere suspicion --

7 THE COURT: Well, there doesn't have to be.
8 There doesn't have to be testimony. There doesn't
9 have to be testimony. And I wouldn't expect your
10 clients to testify, necessarily, that there were,
11 if they were incriminating. I mean, isn't that the
12 point of the discovery?

13 So, okay. All right. I'm going to take it
14 under advisement. I'm going to look at the
15 memorandum in opposition. I wish I had it before
16 today so I could have looked at it more fully, but
17 I will look at it fully before I make a decision.
18 I'll reach out to one or both of you all to assist
19 me in preparing an order, okay.

20 MR. KENNEY: Yes, Your Honor. Thank you.

21 THE COURT: Thank you, all.

22 (Whereupon, the Webex audio/visual was
23 concluded for this hearing.)
24
25

CERTIFICATE OF REPORTER

State of South Carolina)

County of Berkeley)

I, Natalie Dahl, Official Court Reporter for the State of South Carolina, 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 the Court of Common Pleas for Horry County, South Carolina, on the 5th day of January, 2026.

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

March 6, 2026

Natalie Dahl, RPR

Natalie Dahl
Registered Professional Reporter
State of South Carolina Official Court Reporter

The South Carolina Court of Appeals

Joy D. Phillips individually and as guardian of Sierra A.
Phillips, and James C. Phillips, Respondents,

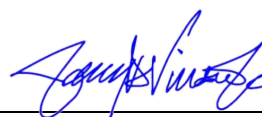
v.

Community Options, Inc., Angela Stuckey, Shirley
Anderson, and Willa Manigault, Appellants.

Appellate Case No. 2026-001501

ORDER

This appeal arises out of an order of the circuit court granting Respondent's motion to compel discovery. Because the underlying order is not immediately appealable, this appeal is dismissed. *See Hamm v. S.C. Pub. Serv. Comm'n*, 312 S.C. 238, 241, 439 S.E.2d 852, 853 (1994) (holding discovery orders are interlocutory and not immediately appealable). The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.



FOR THE COURT, J.

Columbia, South Carolina

cc:

Gedney M. Howe, IV, Esquire
Christopher P Kenney, Esquire
Michael Andrew Monastra, Esquire
Caroline Kaye Buchanan, Esquire
Kathleen Spencer Craig Gill, Esquire

Ashley Sumner Heslop, Esquire
Richard Daniel Addison, Esquire

FILED
Jul 13 2026

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Dale E. Van Slambrook, Circuit Court Judge

Case No. 2023-CP-08-03019
Appellate Case No. 2026-001501

Joy D. Philips individually and
as guardian of Sierra A.
Phillips, and James C. Phillips,

Respondents,

v.

Community Options, Inc., Angela
Stuckey, Shirley Anderson, and Willa
Manigault,

Appellants.

APPELLANTS' MOTION TO REINSTATE

Pursuant to Rules 240 and 260(a) of the South Carolina Appellate Court Rules, Community Options Inc., Angela Stuckey, Shirley Anderson, and Willa Manigault (collectively, "Appellants"), by and through their undersigned counsel, respectfully move the Court to reinstate their appeal. As grounds for this Motion, Appellants would show that the Orders of The Honorable Dale E. Van Slambrook, dated March 25, 2026, and May 26, 2026, granting Respondents' Motion to Compel Document Request No. 12, and denying Appellants' Motion to Reconsider the same, affect a substantial right that cannot be vindicated on appeal after the end of the case and are, therefore, appealable pursuant to section 14-3-330 of the South Carolina Code and common law. This Motion is supported by an accompanying memorandum submitted contemporaneously

herewith.

July 23, 2026

HALL BOOTH SMITH, P.C.

/s/ R. Daniel Addison

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Counsel for Respondents

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Dale E. Van Slambrook, Circuit Court Judge

Case No. 2023-CP-08-03019
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Respondents,

v.

Community Options, Inc., Angela
Stuckey, Shirley Anderson, and Willa
Manigault,

Appellants.

PROOF OF SERVICE

I hereby certify that on this 23rd day of July 2026, a true and correct copy of the above and foregoing Appellants' Motion to Reinstate; Memorandum in Support of Motion to Reinstate; and Motion to Stay were served upon counsel of record on behalf of all appellants by email to the following:

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Chris Kenney Law
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808 Lady Street, Suite D7 (29201)
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RECEIVED

Jul 23 2026

SC Court of Appeals

Email: gedney4@gedneyhowe.com
mmonastra@gedneyhowe.com

Counsel for Respondents

July 23, 2026

HALL BOOTH SMITH, P.C.

/s/ R. Daniel Addison

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Counsel for Appellants

Susan Creel

From: Susan Creel
Sent: Thursday, July 23, 2026 1:36 PM
To: Chris Kenney; 'gedney4@gedneyhowe.com'; mmonastra@gedneyhowe.com
Cc: Ashley Heslop; Spencer Craig Gill; Dan Addison; Caroline Buchanan; Ensley Mahoney; Elizabeth Pate
Subject: Phillips v. Community Options Inc., et al. Appellate Case No. 2026-001501 Civil Action No. 2023-CP-08-03019 [HBS-DMS.FID1875022]
Attachments: Phillips - Ltr to respondents serving Motion to Reinstate_ Memo and Motion to Stay 7.23.26.pdf; Phillips - Motion to Reinstate Appeal 7.23.26.pdf; Phillips - Memo in Support of Motion to Reinstate Appeal 7.23.26.pdf; Phillips - Motion to Stay Remittitur 7.23.26.pdf

Gentlemen,

Please find enclosed for service Appellants' Motion to Reinstate; Memorandum in Support of Motion to Reinstate; and Motion to Stay.

Best regards,

RECEIVED

Jul 23 2026

SC Court of Appeals

July 23, 2026

VIA EMAIL

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street, Suite 200
Columbia, SC 29201-3739
ctappfilings@sccourts.org

RECEIVED
Jul 23 2026
SC Court of Appeals

Re: Joy D. Phillips individually and as guardian of Sierra A. Phillips, and James C. Phillips v. Community Options, Inc., Angela Stuckey, Shirley Anderson, and Willa Manigault
Civil Action No.: 2023-CP-08-03019
Appellate Case No.: 2026-001501

Dear Ms. Kitchings:

Please find enclosed the following documents for filing in this matter:

1. Appellants' Motion to Reinstate;
2. Memorandum in Support of Appellants' Motion to Reinstate;
3. Appellants' Motion to Stay
4. Proof of Service

Please return a clocked copy. We are having a check in the amount of \$100 sent by Federal Express. Thank you for your assistance.

With kind regards, I am

Very truly yours,

/s/ R. Daniel Addison

R. Daniel Addison
Caroline K. Buchanan
Ashley S. Heslop
Spencer C. Gill

RDA/sec

MOUNT PLEASANT, SC

The Honorable Jenny Abbott Kitchings
July 23, 2026
Page 2

Enclosures

cc: Christopher P. Kenney, Esq.
Gedney M. Howe, IV, Esq.
Michael Andrew Monastra, Esq.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Dale E. Van Slambrook, Circuit Court Judge

Civil Action No. 2023-CP-08-03019
Appellate Case No. 2026-001501

Joy D. Philips individually and
as guardian of Sierra A.
Phillips, and James C. Phillips,

Respondents,

v.

Community Options, Inc., Angela
Stuckey, Shirley Anderson, and Willa
Manigault,

Appellants.

MEMORANDUM IN SUPPORT OF
APPELLANTS' MOTION TO REINSTATE

Community Options Inc., Angela Stuckey, Shirley Anderson, and Willa Manigault (collectively, "Appellants"), by and through their undersigned counsel, respectfully submit this Memorandum in Support of their Motion to Reinstate pursuant to Rules 240 and 260(a) of the South Carolina Appellate Court Rules. The Court should grant the Motion because the appealed orders affect a substantial right that will cause harm incapable of repair after final judgment.

STATEMENT OF FACTS

This case involves the alleged abuse and reports of abuse of Respondent Sierra Phillips

(“Sierra”), a now thirty-year-old female with certain physical and cognitive deficits since birth who previously resided at Thistle, a community training home, level 2, operated by Appellant Community Options, Inc. Community Options, Inc. is a nonprofit corporation that provides housing and other services to its “consumers” who are vulnerable adults with varying disabilities and conditions. Community Options’ employees provide personalized care to consumers living in their homes and facilitate health care with consumers’ providers. Its employees do not receive work phones and therefore communicate, at times, using their personal phones. At issue are orders from the circuit court compelling Community Options employees Angela Stuckey, Shirley Anderson, and Willa Manigault (collectively, “Individual Appellants”) to surrender their personal cell phones for a third party to conduct a forensic retrieval and search for six years of information regarding, inter alia, “text messages . . . and reports of abuse, neglect, or injury of *any resident* of a Community Options facility, including the Thistle Community Training Home.” (Order Granting Resp’t Mot. to Compel Doc. Req. No. 12 (emphasis added); Order Den. Appellants’ Mot. for Recons.). Appellants believe the orders are immediately appealable interlocutory orders; however, the Court dismissed their appeal as interlocutory. Appellants now take the opportunity to explain why reinstatement is warranted.

STANDARD OF REVIEW

An appellate court can grant leave to reinstate an appeal for good cause. Rule 260, SCACR. While an order directing a party to participate in discovery is generally interlocutory and not immediately appealable, *Ex parte Whetstone*, 289 S.C. 580, 580, 347 S.E.2d 881, 881 (1986), an appellate court can allow the immediate appeal of a discovery order that affects a substantial right that cannot be vindicated on appeal when the case ends pursuant to section 14-3-330(2) of the South Carolina Code, *Breland v. Love Chevrolet Olds, Inc.*, 339 S.C. 89, 93, 529 S.E.2d 11, 13

(2000). Section 14-3-330(2) specifically provides for appellate jurisdiction in cases involving “[a]n order affecting a substantial right made in an action when such order . . . prevents a judgment from which an appeal might be taken.” To determine if an interlocutory order is appealable, an appellate court should look at the effect of the order. *Thornton v. S.C. Elec. & Gas Corp.*, 391 S.C. 297, 304, 705 S.E.2d 475, 479 (Ct. App. 2011). This decision is determined on a case-by-case basis. *Morrow v. Fundamental Long-Term Care Holdings, LLC*, 412 S.C. 534, 538, 773 S.E.2d 144, 146 (2015).

ARGUMENT

I. The orders affect a substantial right.

Both state and federal law recognize the importance of privacy rights, particularly regarding medical information. *See Hollman v. Woolfson*, 384 S.C. 571, 578, 683 S.E.2d 495, 499 (2009) (“Both State and Federal government have recognized the importance of the privacy rights of patients.”). The Health Information Portability and Accountability Act (“HIPAA”) is the guiding authority on protecting private health information. HIPAA expressly prohibits disclosing protected health information (“PHI”) without procedural safeguards such as valid authorization or an individual’s guardian’s consent. 42 U.S.C.A. § 1320d-6. PHI encompasses any electronically transmitted or maintained health information that identifies or could reasonably identify the individual to whom it pertains. 45 C.F.R. § 160.103. It includes not only treatment records but also “any information . . . that relates to . . . the individual’s past, present, or future physical or mental health condition,” including identifiers such as names, birth dates, and addresses. 42 U.S.C.A. § 1320d; *see also* 45 C.F.R. § 164.514(b)(2) (listing eighteen specific identifiers).

Several state statutes confirm, complement and expand upon the rights and protections afforded by HIPAA. *See, e.g.*, S.C. Code Ann. § 19-11-95 (relating to mental illness or emotional conditions); S.C. Code § 40-75-190 (relating to counseling services); S.C. Code Ann. § 44-29-135

(relating to sexually transmitted diseases); S.C. Code Ann. § 44-44-80 (relating to birth defects); S.C. Code Ann. § 44-22-100 (relating to mental illness and substance abuse); S.C. Code Ann. § 44-53-1650 (relating to prescriptions); S.C. Code Ann. § 44-115-40 (relating to physicians' services). Both the Constitution of the United States and the Constitution of the State of South Carolina protect from unreasonable invasions of privacy as well. *See Griswold v. Connecticut*, 381 U.S. 479 (1965) (explaining that the Constitution of the United States creates a penumbral right to privacy); S.C. Const. art. I, § 10 ("The right of the people to be secure . . . against . . . unreasonable invasions of privacy shall not be violated."). These state and federal protections clearly establish a substantial right within the meaning of section 14-3-330(2).

Here, Individual Appellants' phones may contain (1) medical appointment reminders; (2) communications with consumers' case workers and/or families regarding care and treatment; (3) communications with providers regarding consumers' medical and/or mental health care; and (4) other PHI of consumers, not just Sierra.¹ These providers include but are not limited to counselors, pharmacists, and physicians. The broad discovery orders on appeal pertain to *any* consumer of Community Options. They are devoid of any of the required procedural safeguards to protect the confidential and sensitive information of vulnerable nonparty consumers. Instead, they require a *carte blanche* forensic collection and review of communications on Individual Appellants' cell phones. Appellants are unable to provide notice to the consumer and the opportunity to object pursuant to section 164.512(e) of Title 45 of the Code of Federal Regulations prior to a third party receiving and reviewing the protected PHI. Accordingly, the orders affect these consumers' substantial rights.

¹ The orders include retrieval of deleted information if recoverable.

II. Compliance with the orders will cause irreparable harm and will moot any claim Appellants could raise on appeal that the discovery was erroneously allowed.

The Supreme Court of South Carolina permits appellate review of a discovery order when the subject of the discovery order is sensitive, private information that may be irreversibly compromised upon disclosure. For example, in *Hollman*, the Supreme Court of South Carolina granted a writ of certiorari to review an order allowing the respondents to interview nonparty patients of the appellants because “[a]llowing the interviews will moot any claim petitioners could raise on appeal that the discovery was erroneously allowed [and] the privacy rights of patients is an issue of significant public interest.” 384 S.C. at 577, 683 S.E.2d 495, 498. Similarly, in *Ex parte Capital U-Drive-It, Inc.*, the Supreme Court of South Carolina held that an order unsealing a court record was immediately appealable because “after a court file is unsealed and the information released, no appellate remedy is likely to repair any damage done by an improper disclosure.” 369 S.C. 1, 8, 630 S.E.2d 464, 468 (2006). In other words, requiring the appellant to wait until the end of the case to appeal the lower court’s order “would let the cat out of the bag, without any effective way of recapturing it if the . . . court’s directive was ultimately found to be erroneous.” *Id.* (quoting *Siedle v. Putnam Inv., Inc.*, 147 F.3d 7, 9 (1st Cir. 1998)). Finally, in *Oncology and Hematology Associates of S.C. v. South Carolina Department of Health and Environmental Control*, the Supreme Court of South Carolina granted a writ of certiorari to review discovery orders requiring a healthcare provider to respond to overly broad discovery requests. 387 S.C. 380, 387, 692 S.E.2d 920, 924 (2010).

Here, if Appellants are required to wait until final judgment, it will be too late for this Court to repair the damage done by any improper disclosure that results from the forensic collection and review of Individual Appellants’ cell phones. Even if this Court found the orders were erroneous after final judgment, it would not be able to recapture the PHI already disclosed or restore the

confidentiality of said information. The right to keep PHI private will be permanently extinguished by then. To comply with the orders, Appellants would be knowingly and intentionally allowing a third party to access protected PHI of a nonparty, thereby exposing Appellants to civil and criminal penalties. If the appeal remains dismissed and the case is remitted, Appellants will be in the untenable position of having to decide between being held in contempt or risk violating consumers' substantial right to privacy. Accordingly, an immediate appeal is necessary.

CONCLUSION

Based on the foregoing, Appellants respectfully request that the Court reinstate its appeal.

July 23, 2026

SIGNATURE ON FOLLOWING PAGE

HALL BOOTH SMITH, P.C.

/s/ R. Daniel Addison

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Counsel for Respondents

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
Jul 23 2026
SC Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Dale E. Van Slambrook, Circuit Court Judge

Civil Action No. 2023-CP-08-03019
Appellate Case No. 2026-001501

Joy D. Philips individually and
as guardian of Sierra A.
Phillips, and James C. Phillips,

Respondents,

v.

Community Options, Inc., Angela
Stuckey, Shirley Anderson, and Willa
Manigault,

Appellants.

APPELLANTS' MOTION TO STAY

Community Options Inc., Angela Stuckey, Shirley Anderson, and Willa Manigault (collectively, "Appellants"), by and through their undersigned counsel, respectfully move this Court to stay the remittitur in this matter. Appellants served Respondents with a Notice of Appeal on June 24, 2026, which was filed on July 2, 2026. On July 13, 2026, this Court dismissed their appeal as interlocutory. On July 23, 2026, Appellants filed a Motion to Reinstate their appeal on the grounds that the orders they appealed are immediately appealable interlocutory orders because they affect substantial rights that cannot be vindicated on appeal after the end of the case.

Appellants therefore respectfully request that the Court stay the remittitur pending its decision on their Motion to Reinstate.

July 23, 2026

HALL BOOTH SMITH, P.C.

/s/ R. Daniel Addison

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Counsel for Respondents

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Dale E. Van Slambrook, Circuit Court Judge

Case No. 2023-CP-08-03019
Appellate Case No. 2026-001501

Joy D. Philips individually and
as guardian of Sierra A.
Phillips, and James C. Phillips,

Respondents,

v.

Community Options, Inc., Angela
Stuckey, Shirley Anderson, and Willa
Manigault,

Appellants.

PROOF OF SERVICE

I hereby certify that on this 23rd day of July 2026, a true and correct copy of the above and foregoing Appellants' Motion to Reinstate; Memorandum in Support of Motion to Reinstate; and Motion to Stay were served upon counsel of record on behalf of all appellants by email to the following:

Christopher P Kenney, S.C. Bar No. 100147
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SC Court of Appeals

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Counsel for Respondents

July 23, 2026

HALL BOOTH SMITH, P.C.

/s/ R. Daniel Addison

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Counsel for Appellants

Susan Creel

From: Susan Creel
Sent: Thursday, July 23, 2026 1:36 PM
To: Chris Kenney; 'gedney4@gedneyhowe.com'; mmonastra@gedneyhowe.com
Cc: Ashley Heslop; Spencer Craig Gill; Dan Addison; Caroline Buchanan; Ensley Mahoney; Elizabeth Pate
Subject: Phillips v. Community Options Inc., et al. Appellate Case No. 2026-001501 Civil Action No. 2023-CP-08-03019 [HBS-DMS.FID1875022]
Attachments: Phillips - Ltr to respondents serving Motion to Reinstate_ Memo and Motion to Stay 7.23.26.pdf; Phillips - Motion to Reinstate Appeal 7.23.26.pdf; Phillips - Memo in Support of Motion to Reinstate Appeal 7.23.26.pdf; Phillips - Motion to Stay Remittitur 7.23.26.pdf

Gentlemen,

Please find enclosed for service Appellants' Motion to Reinstate; Memorandum in Support of Motion to Reinstate; and Motion to Stay.

Best regards,

RECEIVED

Jul 23 2026

SC Court of Appeals

July 23, 2026

VIA EMAIL

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street, Suite 200
Columbia, SC 29201-3739
ctappfilings@sccourts.org

RECEIVED
Jul 23 2026
SC Court of Appeals

Re: Joy D. Phillips individually and as guardian of Sierra A. Phillips, and James C. Phillips v. Community Options, Inc., Angela Stuckey, Shirley Anderson, and Willa Manigault
Civil Action No.: 2023-CP-08-03019
Appellate Case No.: 2026-001501

Dear Ms. Kitchings:

Please find enclosed the following documents for filing in this matter:

1. Appellants' Motion to Reinstate;
2. Memorandum in Support of Appellants' Motion to Reinstate;
3. Appellants' Motion to Stay
4. Proof of Service

Please return a clocked copy. We are having a check in the amount of \$100 sent by Federal Express. Thank you for your assistance.

With kind regards, I am

Very truly yours,

/s/ R. Daniel Addison

R. Daniel Addison
Caroline K. Buchanan
Ashley S. Heslop
Spencer C. Gill

RDA/sec

MOUNT PLEASANT, SC

The Honorable Jenny Abbott Kitchings

July 23, 2026

Page 2

Enclosures

cc: Christopher P. Kenney, Esq.
Gedney M. Howe, IV, Esq.
Michael Andrew Monastra, Esq.

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Jul 31 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from the
COURT OF COMMON PLEAS, BERKELEY COUNTY
The Honorable Dale E. Slambrook, Circuit Judge

Appellate Case No. 2026-001506
Case No. 2023-CP-08-03019

Joy D. Phillips individually and
as guardian of Sierra A. Phillips,
and James C. Phillips.....Respondents,

v.

Community Options, Inc.,
Angela Stuckey, Shirley Anderson,
and Willa Manigault.....Appellants.

RESPONDENTS' RESPONSE IN OPPOSITION
TO APPELLANTS' MOTION TO STAY
AND MOTION TO REINSTATE

This is a frivolous interlocutory appeal that Appellants filed to delay this case and attempt to avoid much deserved consequences when the circuit court convenes a hearing on Respondents' pending motion for a rule to show cause and a contempt order.

On July 13, 2026, this Court, on its own motion, dismissed this appeal, concluding the underlying order compelling discovery was not immediately appealable. That is exactly right. It has long been the law in this State that a litigant disgruntled with a discovery order has two options: either comply with the discovery order and waive the right to challenge it on appeal or refuse to comply, be held in contempt, and appeal the contempt order. Ex parte Whetstone, 289 S.C. 580, 580–81, 347 S.E.2d 881, 881–82 (1986).

The record below is replete with Appellants' efforts to delay and mislead the circuit court with false assertions about the record and duplicative motions seeking to relitigate the issues already decided by the discovery order. This appeal and Appellants' motion to reinstate and stay remittitur is more of the same.

Appellants' motion to reinstate claims this Court should intervene because the discovery order "affects a substantial right" which they claim is protected health information that "may" be in Appellants' phones. See MIS Mot. Reinstate, 4. "May" is the operative word because, as the circuit court explained, "instead of collecting the phones and reviewing the messages for responsiveness, counsel left it to the individual Defendants to decide whether they had responsive messages." Disc. Order, 8. Notably, Appellants told the circuit court it was "pure speculation" that there was relevant discovery in the phones—a claim belied by the record and rejected by the circuit court. See Disc. Order, 7. Now, having lost arguing there is no relevant discovery in the phones, they now claim they cannot go looking for it because the discovery order is "devoid of any of the required procedural safeguards to protect the confidential and sensitive information of vulnerable nonparty consumers[.]" See MIS Mot. Reinstate, 4. That is also false. The discovery order requires Appellants' counsel to collect and review the phone data for responsive messages and allows for the redaction of the names of other consumers and confidential designation under the Consent Confidentiality Order. See Disc. Order, 11. Notably, in Consent Confidentiality Order:

The parties stipulate that discovery in this case may also require the production of protected health information ("PHI") that is protected by the Health Insurance Portability and Accountability Act of 1996, as amended (see Pub. L. 104-191, 110 Stat. 1936; Pub. L. 111-5, 123 Stat. 115) ("HIPAA"), and regulations promulgated thereunder, specifically 45 C.F.R. §§ 164.512(e)(1)(ii)(B) and 164.512(e)(1)(v).

Consent Conf. Order ¶ 3 (emphasis added) (filed Jan 11, 2024). Appellants jointly moved to enter this order to facilitate precisely the discovery they now refuse to collect, review, and produce.

The manufactured hysterics about collecting, reviewing, and producing responsive discovery (with appropriate redaction and confidential designations) is belied by another simple fact: if these medical appointment reminders and the like are so sensitive, then why are they being shared on Appellants' *personal* cell phones? Cf. Disc. Order, 7 ("Stuckey, Anderson, and Manigault all testified that they used their personal phones to send work-related text messages.").

"[I]n discovery, time does eventually run out on bad behavior." Innovative Waste Mgmt., Inc. v. Crest Energy Partners GP, LLC, 445 S.C. 19, 22, 911 S.E.2d 406, 407 (2025). The motions should be denied and remittitur should issue immediately. If the Court intends to hold a hearing on the motion to reinstate, Respondents respectfully request leave to file a supplemental memorandum in opposition and will move to supplement the record and have Appellants' motion heard alongside a motion to strike their Answer and sanction them and their lawyers for frivolous proceedings.

Respectfully submitted,

s/Christopher P. Kenney
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ATTORNEYS FOR RESPONDENTS
JOY D. PHILLIPS AND JAMES C. PHILLIPS

July 31, 2026
Columbia, South Carolina.

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Jul 31 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from the
COURT OF COMMON PLEAS, BERKELEY COUNTY
The Honorable Dale E. Slambrook, Circuit Judge

Appellate Case No. 2026-001506
Case No. 2023-CP-08-03019

Joy D. Phillips individually and
as guardian of Sierra A. Phillips,
and James C. Phillips.....Respondents,

v.

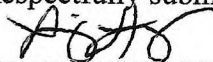
Community Options, Inc.,
Angela Stuckey, Shirley Anderson,
and Willa Manigault.....Appellants.

CERTIFICATE OF SERVICE

I served Respondent's response in opposition on the Appellant as indicated below:

VIA Email: Ashley Heslop, Esq.
Spencer Gill, Esq.
Caroline Buchanan Esq.
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Respectfully submitted,



Lindsey Dupuy, Paralegal
CHRIS KENNEY LAW

July 31, 2026
Columbia, South Carolina.



Christopher P. Kenney
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July 31, 2026
VIA E-FILING

The Honorable Jenny Abbott Kitchings
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ctappfilings@sccourts.org

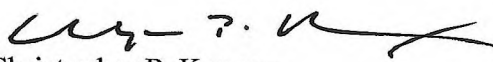
In re: Phillips v. Community Options, Inc. et al., Appellate Case No. 2026-001501

Dear Ms. Kitchings:

Enclosed please find Respondent's response in opposition to Appellant's motion to stay and motion to reinstate and certificate of service for filing.

With warm regards, I am

Sincerely,



Christopher P. Kenney

CPK/lmd
Enclosure
cc: Counsel of Record (email only)

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from the
COURT OF COMMON PLEAS, BERKELEY COUNTY
The Honorable Dale E. Slambrook, Circuit Judge

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Joy D. Phillips individually and
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v.

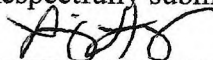
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and Willa Manigault.....Appellants.

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VIA Email: Ashley Heslop, Esq.
 Spencer Gill, Esq.
 Caroline Buchanan Esq.
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Respectfully submitted,



Lindsey Dupuy, Paralegal
CHRIS KENNEY LAW

July 31, 2026
Columbia, South Carolina.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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ATTORNEYS FOR RESPONDENTS
JOY D. PHILLIPS AND JAMES C. PHILLIPS

July 31, 2026
Columbia, South Carolina.

The South Carolina Court of Appeals

Joy D. Phillips individually and as guardian of Sierra A.
Phillips, and James C. Phillips, Respondents,

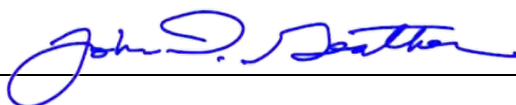
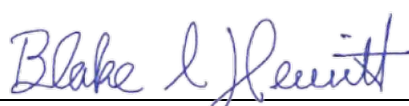
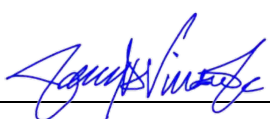
v.

Community Options, Inc., Angela Stuckey, Shirley
Anderson, and Willa Manigault, Appellants.

Appellate Case No. 2026-001501

ORDER

After careful consideration of Appellant's motion for reconsideration, which we construe as a petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.¹

| | |
|--|----|
|  | J. |
|  | J. |
|  | J. |

Columbia, South Carolina

¹ Appellants also filed a motion to stay remittitur pending resolution of this motion. Appeals are held in abeyance pending the court's decision on petitions for rehearing and motions to reinstate. Therefore, the appeal was held in abeyance and the court takes no action on Appellant's motion to stay remittitur pending resolution of this motion.

cc:

Gedney M. Howe, IV, Esquire

Christopher P Kenney, Esquire

Michael Andrew Monastra, Esquire

Caroline Kaye Buchanan, Esquire

Kathleen Spencer Craig Gill, Esquire

Ashley Sumner Heslop, Esquire

Richard Daniel Addison, Esquire

FILED
Sep 23 2026